



भारत का राजपत्र

The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

साप्ताहिक

WEEKLY

सं. 34]

नई दिल्ली, अगस्त 19—अगस्त 25, 2012, शनिवार/शक्षवाच 28—शनू 3, 1934

No. 34]

NEW DELHI, AUGUST 19—AUGUST 25, 2012, SATURDAY/SHAKSHAVANA 28—SHANSHA 3, 1934

भाग में यिन पृष्ठ संख्या दी जाती है जिससे कि यह पृष्ठ संख्यावाले के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be used as a separate compilation

भाग II खण्ड 3 उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सार्विक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विधि और न्याय बंजारालय

(विधि कार्य विभाग)

नई दिल्ली, 21 अगस्त, 2012

का. आ. 2686.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की आरा 24 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री एस. एम. जगताप को रक्षा अनुसंधान और विकास विभाग, रक्षा मंत्रालय की ओर से लोक अभियोजक के रूप में उपस्थित होने और डा. आर.जी. तवारे द्वारा या उनके विरुद्ध प्रथम श्रेणी न्यायिक मनिस्ट्रेट और सब न्यायालय, पुणे में फाइल किए गए सभी दौड़क भागलों का संचालन करने के लिए नियुक्त करती है।

[फा. सं. 23(2)/2012-न्यायिक]
सुरेश चंद्रा, संयुक्त सचिव और विधि सलाहकार

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

New Delhi, the 21st August, 2012.

S. O. 2686—In exercise of the powers conferred by sub-section (2) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri S.M. Jagtap, Advocate as Public Prosecutor for the purpose of appearing on behalf of Department Defence Research and Development, Ministry of Defence, and conducting all criminal cases filed by or against Dr. R.G. Tamane, before the Judicial Magistrate of the First Class and the court of session, Pune,

[F.No. 23 (2)/2012-L.R.I.]
SURESH CHANDRA, Jt. Secy. and Legal Advisor

वित्त मंत्रालय

(वित्तीय सेवाएँ विभाग)

नई दिल्ली, 14 अगस्त, 2012

का. आ. 2687.—भारतीय रिजर्व बैंक अधिनियम, 1934 की धारा 8 की उपधारा (4) के साथ पठित उपधारा (1) के खंड (क) का पद गविन गविनयों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा डॉ. के. सी. चक्रबर्ती (जन्म तिथि : 27-6-1952) को 30-6-2014 तक अधीन रखने के 62 वर्ष की आयु प्राप्त करने तक या अगले आदेशों तक, जो भी पहले हो, भारतीय रिजर्व बैंक के उप-गवर्नर के रूप में पुनर्नियुक्त करता है।

[फा. सं. 7/1/2012-बीओ-I]

विजय मल्होत्रा, अवर सचिव

MINISTRY OF FINANCE
(Department of Financial Services)

New Delhi, the 14th August, 2012

S. O. 2687.—In exercise of the powers conferred by clause (a) of sub-section (1) read with sub-section (4) of section 8 of the Reserve Bank of India Act, 1934, the Central Government hereby re-appoint Dr. K. C. Chakraborty (DOB : 27-6-1952), as Deputy Governor, Reserve Bank of India for a period up to 30-6-2014 i.e. till he attains the age of 62 years or until further orders, whichever is earlier.

[F. No. 7/1/2012-B01]

VIJAY MALHOOTRA Under Secy

विदेश मंत्रालय

(सौभाग्यी प्रभाग)

नई दिल्ली, 9 अगस्त, 2012

का. आ. 2688.—राजनयिक और कांसलीय ऑफिसर (शपथ के बाद) के अधिनियम, 1948 (1948 का 41) की धारा 3 के खंड (क) के अनुसरण में केंद्र सरकार एतद्वारा श्री अशुतोष द्विवेदी, सहायक का. आ. 8, 2012 से भारत के राजदूतावास, परिंदिया नवाबी में महायक कांसलीर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[म. नं. 4330/01/2006]

आर. के. पेरिन्दिया, अवर सचिव (को-प्लग)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 9th August, 2012

S. O. 2688.—In pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorize Shri Ashutosh Dwivedi, Assistant Embassy of India, Addis Ababa to perform the duties of Assistant Consular Officer with effect from 9th August, 2012.

[No. T 4330/01/2006]

R. K. PERINDIA, Under Secy (Consular)

सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय

नई दिल्ली, 14 अगस्त, 2012

का. आ. 2689.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में, सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय के नियंत्रणाधीन नियमित्त कार्यालयों जिनके 80 प्रतिशत से अधिक कर्मचारियों के हिस्सों का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है :—

1. शाखा कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, डी-16, एसएमए इंडस्ट्रियल एस्टेट, जीटी करनाल रोड, जहांगीरपुरी, नजदीक जहांगीरपुरी मेट्रो स्टेशन, दिल्ली-110033।
2. शाखा कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, सीबी-372, दूसरी मॉजिल, रिंग रोड, नारायणा, नई दिल्ली - 110028।
3. शाखा कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, सी-43, डीडोए शेड, पहली मॉजिल, ओखला इंडस्ट्रियल एरिया, फैज-1,

नई दिल्ली-110020।

4. शाखा कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, एनडीटीए कॉम्प्लेक्स, ब्लॉक-9, दूसरी मौजिल, लिबर्टी सिनेमा के सामने, रेजीडेंसी रोड, सदर नागपुर- 440001 (महाराष्ट्र)।
5. शाखा कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, 203, श्री दत्तासाई कॉम्प्लेक्स, आरटीसी 'X' रोड्स, मुशीराबाद, हैदराबाद-500020(आंध्र प्रदेश)।
6. शाखा कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, नं. 6 व 7, वेस्ट ऑफ कोर्ड रोड, हैंडस्ट्रियल टाउन, राजाजी नगर बैंगलुरु-560044 (कर्नाटक)।
7. सूक्ष्म, लघु और मध्यम उद्यम विकास संस्थान, 65/1, जी एस टी रोड, गिरण्डी, चैनै-600032।

[सं. ई-12016/01/2005-हिन्दी]

सी. के. मिश्रा, संयुक्त सचिव

MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES

New Delhi, the 14th August, 2012

S.O. 2689.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices, under the control of the Ministry of Micro, Small & Medium Enterprises, whose more than 80% staff has acquired working knowledge in Hindi :—

1. Branch Office, National Small Industries Corporation Ltd., D-16, SMA Industrial Estate, GT Kamal Road, Jahangir Puri, Near JahangirPuri Metro Station, Delhi- 110033.
2. Branch Office, National Small Industries Corporation Ltd., CB-372, Second Floor, Ring Road, Naraiana, New Delhi-110028.
3. Branch Office, National Small Industries Corporation Ltd., C-43, DDA Shed, First Floor, Okhla Industrial Area, Phase-I, New Delhi-110020.
4. Branch Office, National Small Industries Corporation Ltd., NDTA Complex, Block-9, Second Floor, Opp. Liberty Complex, Residency Road, Sadar, Nagpur- 440001 (Maharashtra).
5. Branch Office, National Small Industries Corporation Ltd., 203, Sri Dattasai Complex, RTC 'X' Road, Musheerabad, Hyderabad-500020 (Andhra Pradesh).
6. Branch Office, National Small Industries Corporation Ltd., No.6 & 7, West of Chord Road, Industrial Town, Rajaji Nagar, Bangalore-560044 (Karnataka).
7. Micro Small Medium Enterprise—Development Institute, 65/1, GST Road, Guindy, Chennai- 600032.

[No. E-12016/01/2005-Hindi]

C. K. MISHRA, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 3 अगस्त, 2012

का. आ. 2690.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों)	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
I.	आई एस 3711: 2012/आई एस ओ 377:1999 इस्पात एवं इस्पात के उत्पाद -यांत्रिक परीक्षण के लिए नमूनों एवं परीक्षण दुकानों का अवस्थापन एवं तैयारी (दूसरा पुनरीक्षण)	आई एस 3711: 1990	31-5-2012

इस भारतीय मानक की अधिकृत संस्थान बड़ौरे, मानक भवन, 9, बड़ादुर शाह जफर मार्ग, नई दिल्ली-110002, भ्रष्टाचार कार्यालयों : नई दिल्ली, कलापालग, चम्पाई, चेन्नई, मुम्बई तथा साखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बटूर, गुवाहाटी, हैदराबाद, जमशुर, काशीगुर, काशीगुर, चेन्नई, तथा तिसकनतापुरम में कियी हेतु उपलब्ध है।

[संदर्भ : एमटीडी-3/टी-32]
पी. ओष, कैरिनिक 'ई' एवं प्रमुख (एमटीडी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 3rd August, 2012

S. O. 2696.—In pursuance of clause (a) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

S. No.	No. and Year of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)	(4)
1.	IS 3711: 2012/BSI 3777: 1987 Steel and Steel Products—Locations and Preparation of Specimens and Test Procedure Mechanical Testing (Second Revision)	IS 3711: 1990	31-5-2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Behadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and other Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Gauhati, Hyderabad, Jaipur, Kavaratti, Nagpur, Ranchi, Pune and Thiruvananthapuram.

[Ref. MTD 3/T-32]

P. GHOSH, Scientist 'E' & Head (MTD)

नई दिल्ली, 3 अगस्त, 2012

क्र. नं. 2697.—भारतीय मानक बड़ौरे नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक बड़ौरे प्रदर्शन अधिकृति करता है कि निम्न भारतीय मानकों के क्रियण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं. स्थापित भारतीय मानक(ओं) की संख्या, तर्फ और संस्करण	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि	
(1)	(2)	(3)	(4)
आई एस 4258: 2011/आई एस ओ 18265 : 2003 अंतर्राष्ट्रीय सामग्री - कठोरता मानों का परिवर्तन (दूसरा पुनरीक्षण)	आई एस 4258:1982	31-12-2011	

इस भारतीय मानक की प्रतीक्षा भारतीय मानक द्वारे, मानक भवन, 9, बहादुर शाह जफर मर्म, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चमड़ीगढ़, चेन्नई, मुम्बई तथा सालाका कार्यालयों : अहमदाबाद, गांगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नालापुर, पटना, पूर्णे तथा शिल्पकान्तापुरम् में विस्तीर्ण हेतु उपलब्ध हैं।

[संदर्भ एमटीडी-3/टी-36]
पी. ओष, वैज्ञानिक 'ई' एवं प्रमुख (एमटीडी)

New Delhi, the 3rd August, 2012

S. O. 2691.—Importance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)	(4)
1. IS 4258 : 2003/MSD IS 4258 : 2003	Metallic materials—Conversion of British values (Second Revision)	IS 4258 : 1982	31-12-2011

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110062 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kavaratti, Nagpur, Panaji, Pune and Thiruvananthapuram.

[Ref. MTD 3/T-36]
P. GHOSH, Scientist 'E' & Head (MTD)

नई दिल्ली, 3 अगस्त, 2012

खाता 2692.—भारतीय मानक द्वारे नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक द्वारे घटाया जानिवाला करता है कि जिन भारतीय मानकों के विवरण जीवे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (को)	नवे भारतीय मानक द्वारा अस्थिरीकृत भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 12278 : 2001/आई एस एस 5496:1999 भारतीय संस्कृती—त्रिलोक— सिंह ट्रेसलक्षण परिकल्पना (प्राचीन युगलिकान)	आई एस 12278 : 1988	31-12-2011

इस भारतीय मानक की प्रतीक्षा भारतीय मानक द्वारे, मानक भवन, 9, बहादुर शाह जफर मर्म, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चमड़ीगढ़, चेन्नई, मुम्बई तथा सालाका कार्यालयों : अहमदाबाद, गांगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नालापुर, पटना, पूर्णे तथा शिल्पकान्तापुरम् में विस्तीर्ण हेतु उपलब्ध हैं।

[संदर्भ एमटीडी-3/टी-123]
पी. ओष, वैज्ञानिक 'ई' एवं प्रमुख (एमटीडी)

New Delhi, the 3rd August, 2012

S. O. 2692.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No and Year of Indian Standards, if any, Superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)	(4)
1.	IS 12278: 2011/ISO 8496:1998 Metallic materials -Tube-Ring Tensile Test (First Revision)	IS 12278: 1988	31-12-2011

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bengaluru, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Katpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref. MTD 3/T-123]

P. GHOSH, Scientist 'E' & Head (MTD)

नई दिल्ली, 3 अगस्त, 2012

का. आ. 2693.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसार मध्यमानक व्यूरो एवं द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसृती में दिए गए हैं वे स्थापित शा गए हैं :

अनुसृती

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, नांदि कोई हो, की संख्या और वर्ष	स्थापित नियम
(1)	(2)	(3)	(4)
1.	आई एस 12872: 2011/आई एस ओ 9513:1999 भौतिक सामग्री-एकाक्ष परीक्षण में प्रयुक्त एक्सटेंसोमीटरों का सत्यापन (पहला पुनरीक्षण)	आई एस 12872: 1990/ आई एस ओ 9513: 1989	31-12-2011

इन भारतीय मानक की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूर्णे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ एमटीडी-3/टी-103]
पी. घोष, वैज्ञानिक 'ई' एवं प्रमुख (एमटीडी)

New Delhi, the 3rd August, 2012

S. O. 2693.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)	(4)
1.	IS 12872: 2011/ISO 9513:1999 Metallic materials—Calibration of Extensometers used in uniaxial testing (First Revision)	IS 12872: 1990/ ISO 9513: 1989	31-12-2011

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bengaluru, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref MTD 3/T-103]

P GHOSH, Scientist 'E' & Head (MTD)

नई दिल्ली, 9 अगस्त, 2012

का. आ. 2694.—भारतीय मानक व्यारो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसर में भारतीय मानक व्यारो एवं द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(को) को संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)

1.	आई एस 15891(भाग 9): 2012 वस्त्रादि - बिना बुने हुए वस्त्रों की परीक्षण विधियाँ भाग 9 : गुणांक सहित इंप्रेबिलिटी ज्ञात करना	-	जुलाई 2012
(1)	(2)	(3)	(4)

इस भारतीय मानक की प्रतियाँ भारतीय मानक व्यारो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शास्त्रा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूर्ण तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ टी एक्स डी/जी-25]

अनिल कुमार, वैज्ञानिक 'ई' एवं प्रमुख (टी एक्स डी)

New Delhi, the 9th August, 2012

S. O. 2694.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No., Title and Year of the Indian Standards	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standards	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 15891(Part 9): 2012/ISO 9073-9:2008 Textiles- Test Methods for Nonwovens : Part 9 Determination of Drapability including Coefficient	-	July 2012

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. TXD/G-25]

ANIL KUMAR, Scientist 'E' & Head (TxD)

नई दिल्ली, 9 अगस्त, 2012

का. आ. 2695.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ब	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15931: 2012 टोल दिल्लेदार फोम यूपीवीसी दरवाजे के शटर – विशेष		31 जुलाई 2012

इस भारतीय मानक की प्रति भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, ब्रैन्झ, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ सीईडी/राजपत्र]

डी. के. अग्रवाल, वैज्ञानिक 'एफ' व प्रमुख (सिविल इंजीनियरी)

New Delhi, the 9th August, 2012

S.O. 2695.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established and Title	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standards	Date when Established
(1)	(2)	(3)	(4)
1.	IS 15931: 2012 Solid Panel Foam UPVC Door Shutters—Specification		31 July 2012

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref. CED/Gazette]

D. K. AGRAWAL, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 10 अगस्त, 2012

का.आ. 2696.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं	लाइसेंस संख्या	स्वीकृत करने वाली दिनी	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भारतीय मानक का संख्या	भा. मा. संख्या	भाग	अनु. वर्ष	(9)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)		(9)
1.	3845877	27-6-2012	मैसर्स वैष्णोदेवी डेयरी प्राइवेट प्रा. लि, इकाई ॥, गट सं. 88/१बी, गांव नंदुर, तालुका दौँड, जिला पुणे, महाराष्ट्र।	मलाई निकाला हुआ दूध फैब्रिकर - भाग १ : मानक श्रेष्ठी	13334	01	-	1998	
2.	3797286	3-7-2012	मैसर्स अंलकार एंग्रे एंड फूहस प्रा. लि., म. नं. 554, एट अस्से, पोस्ट पंचवड, तालुका बाई, जिला सातारा, महाराष्ट्र।	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अस्त्राय)	14543	-	-	2004	
3.	3849986	9-7-2012	मैसर्स एस्प्रेम टेक्नोडिजाइन प्रा.लि., गट सं. 258, खराळवाडी, चाकन, तालुका खेड, जिला पुणे, महाराष्ट्र, 410501	1100 क्लेट तक और सहित चीजोंसही रोकित खराळवाडी चाकन चोहांग के स्थित	694	-	-	1990	
4.	3850062	6-7-2012	मैसर्स प्रकाश टाइल्स एंड स्पैन पाइप इंडस्ट्रीज, गट सं. 361/२/ए, फाटस, तालुका दौँड, जिला पुणे, महाराष्ट्र, 412219	प्रैक्टिस क्लॉट प्लॉप्स (प्रैक्टिन सहित और रहित)	458	-	-	2003	
5.	3799492	9-7-2012	मैसर्स प्रार्बन्ध इंडस्ट्रीज गट संख्या 1748, मंगलवेदा, तालुका मंगलवेदा, जिला सोलापुर, महाराष्ट्र- 413305	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अस्त्राय)	14543	-	-	2004	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
6.	3854575	24-7-2012	मैसर्स कोधरे सीमेंट पाइप इंडस्ट्रीज सं. नं. 18/4/4 शेवलबाडी ए तालुका हवेली जिला पुणे महाराष्ट्र 412307	प्रीकास्ट कांक्रीट पाइप्स (प्रबलन सहित और रहित)	458	-	-	2003
7.	3827774	25-7-2012	मैसर्स पुणे हायजीनिक फूड प्रॉडक्ट्स सं. नं. 50/21/3 नरहे तालुका हवेली जिला पुणे महाराष्ट्र 411041	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2004

[सं. सीएमडी/13:11]
बी. एम. हनीफ, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 10th August, 2012

S.O. 2696.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3845877	27-6-2012	M/s. Vaishnodevi Dairy Products Pvt. Ltd. Unit II Gat No. 88/1B Village Nandur Taluka Daund District Pune Maharashtra	Skimmed Milk Powder Specification-Part I: Standard Grade	13334	01	-	1998
2.	3797286	3-7-2012	M/s. Alankar Agro and Foods Pvt. Ltd. M.No. 554 At Asle Post Panchwad Taluka Wai District Satara Maharashtra	Packaged Drinking water (Other Than Packaged Natural Mineral Water)	14543	-	-	2004

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
3.	3849986	9-7-2012	M/s. Essem Technodesign Pvt. Ltd. Gat No. 258 Kharabwadi Chakan Taluka Khed District Pune Maharashtra 410501	PVC Insulated Cables for working Voltages upto and Including 1100 V	694	-	-	1990
4.	3850062	6-7-2012	M/s. Prakash Tiles & Spun Pipe Industries Gat No. 361/2/A Patas Taluka Daund District Pune Maharashtra 412219	Precast Concrete Pipes (with and without Reinforcement)	458	-	-	2003
5.	3799492	9-7-2012	M/s. prarthana Industries Gat. No. 1748 Mangaiwedha Taluka Mangaiwedha District Solapur Maharashtra 413305	Packaged Drinking water (Other Than Packaged Natural Mineral Water)	14543	-	-	2004
6.	3854575	24-7-2012	M/s. Kodre Cement Pipe Industries S. No. 18/4/4 Shewalwadi Taluka Haveli District Pune Maharashtra 412307	Precast Concrete Pipes (with and without Reinforcement)	458	-	-	2003
7.	3827774	25-7-2012	M/s. Pune Hygienic Food Products S.No. 50/21/3 Narhe Taluka Haveli District Pune Maharashtra 411041	Packaged Drinking water (Other Than Packaged Natural Mineral Water)	14543	-	-	2004

[No. CMD/13:11]
B. M. HANEEF, Scientist 'F' and Head

नई दिल्ली, 13 अगस्त, 2012

का. आ. 2697.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानक के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं. स्थापित भारतीय मानक(कों)	नये भारतीय मानक द्वारा	स्थापित तिथि
की संख्या, वर्ष और शीर्षक	अतिक्रमित भारतीय मानक	
	अथवा मानकों, यदि कोई हो,	
	की संख्या और वर्ष	

(1)	(2)	(3)	(4)
1. आई एस 15912: 2012	-	31 जुलाई, 2012	

बांस प्रमुख संरचनात्मक
डिजाइन – रेति-संरचना
इस भारतीय मानक की प्रति भारतीय मानक ब्लूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों, नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, चट्टग्राम, बूँदे तथा तिरुचनत्तपुरम में बिक्री हेतु उपलब्ध है।

[संदर्भ सीईडी/राजपत्र]

डी. के. अग्रवाल, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियर)

New Delhi, the 13th August, 2012

S. O. 2697.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards officially notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established and Title	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standards	Date when Established
(1)	(2)	(3)	(4)
1. 15 15912: 2012: बांस के डिजाइन Using Plywood: बांस के डिजाइन			31 July, 2012

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Panaji, Ranchi and Tiruvananthapuram.

[Ref. CED/Gazette]

D. K. AGRAWAL, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 16 अगस्त, 2012

क्रम. अ. 21932.—भारतीय मानक ब्लूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्लूरो एवं दूधारा अस्ट्रेनिंग करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं. स्थापित भारतीय मानक(कों)	नये भारतीय मानक द्वारा	स्थापित तिथि
की संख्या, वर्ष और शीर्षक	अतिक्रमित भारतीय मानक	
	अथवा मानकों, यदि कोई हो,	
	की संख्या और वर्ष	

(1)	(2)	(3)	(4)
1. आई एस 19997: 2012: बांस के डिजाइन रसोई-बांस के लिए उच्च निकल ऑस्ट्रेनिंग करते हुए स्टील की चादर एवं चत्ती -सिविल-	-	31-07-2012	

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नास्कुर, पटना, पूर्णे तथा तिरुवनंतपुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ एमटीडी-16/टी-103]

पी. ओष, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

New Delhi, the 16th August, 2012

S. O. 2698.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)	(4)
1.	IS 15997: 2012 Low Nickel Austenitic Stainless Steel Sheet and Strip for Utensils and Kitchen Appliances—Specification	-	31-07-2012

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref. MTD-16/T-103]

P. GHOSH, Scientist 'F' & Head (MTD)

नई दिल्ली, 17 अगस्त, 2012

का. आ. 2699.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो इन्हाँमें अधिकृति करता है कि जिन भारतीय मानकों का विवरण नीचे अनुसूची में दिया गया है वे स्थापित हो गये हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों)	नये भारतीय मानक द्वारा स्थापित तिथि
(1)	(2)	(4)
क्रम सं.	स्थापित भारतीय मानक (कों)	नये भारतीय मानक द्वारा स्थापित तिथि
क्रम सं.	की संख्या, वर्ष और शीर्षक	आंशिकमिति भारतीय मानक
क्रम सं.	संख्या, वर्ष और शीर्षक	अधिकारी मानकों, यदि कोई हो,
क्रम सं.	संख्या, वर्ष और शीर्षक	की संख्या और वर्ष

(1)	(2)	(3)	(4)
1.	आई एस 16346: 2012 अस्ट्रेनेशन या अन्य अस्ट्रेन लीडिंग इलेक्ट्रोलॉटिस कार्पोरेशन के लिए सुरक्षा सीलिंग सैकेंडरी सैल एवं अन्य सैल और बैलिंगों के लिए सुरक्षा अपेक्षाएं	-	17-08-2012
2.	आई एस 16347: 2012 अस्ट्रेनेशन या अन्य अस्ट्रेन लीडिंग इलेक्ट्रोलॉटिस कार्पोरेशन के लिए सैल और बैलिंगों के लिए अस्ट्रेनेशन लिपिकम सैल और बैलिंगों	-	17-08-2012

इन भारतीय मानकों की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी हैदराबाद, जयपुर, कानपुर, नास्कुर, पटना, पूर्णे तथा तिरुवनंतपुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ ईटी-11/टी-79, टी-80]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 17th August, 2012

S. O. 2699.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, it is hereby notifies that the Indian Standards, particulars of which are mentioned in the Schedule give hereafter, have been cancelled and stand withdrawn :—

SCHEDULE

Sl No.	No. & Year of the Indian Standards	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)	(4)
1.	IS 16046: 2012 Secondary cells and batteries containing alkaline or other non-acid electrolytes - Safety requirements for portable sealed secondary cells and for batteries made from them, for use in portable application	—	17-8-2012
2.	IS 16047: 2012 Secondary cells and batteries containing alkaline or other non-acid electrolytes - Secondary lithium cells and batteries for portable application	—	17-8-2012

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai, and also Branch Offices : Ahmedabad, Bengaluru, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref. ET 11/T-79, T-80]
R. K. TREHAN, Scientist 'E' & Head (Electrotechnical)

कोयला भंगालय

नई दिल्ली, 21 अगस्त, 2012

का.आ. 2700.—केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के कोयला भंगालय की अधिसूचना संख्यांक का.आ. 2408 तारीख 1 सितम्बर, 2011 जो भारत के राजपत्र भाग II, खंड 3, उप-खंड (ii) में तारीख 10 सितम्बर, 2011 में प्रकाशित की गई थी, में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना की अनुसूची में “व्हॉक -बी” शीर्षक के अधीन —

(क) “ग्राम सिमरबेड़ा में अर्जित किए जाने वाले प्लाट संख्या में अथवा पर सतही अधिकार” उप शीर्षक के अधीन “775, 812” अंकों के स्थान पर, “775 से 812”; और

(ख) “ग्राम धवैयां में अर्जित किए जाने वाले प्लाट संख्या में अथवा पर सतही अधिकार” उप शीर्षक के अधीन “1230(भाग)” अंकों और कोष्ठक के पश्चात् “और 1231” शब्द और अंक अंतःस्थापित किए जाएंगे।

[फा. सं. 43015/19/2009-पीआरआईडब्ल्यू-I]

ए. के. दास, अवर सचिव

पाद टिप्पणि :— मुख्य अधिसूचना के भारत के राजपत्र के भाग II, खंड-3, उप-खंड (ii) तारीख 10 सितम्बर, 2011 में संख्या का.आ. 2408 तारीख 1 सितम्बर, 2011 द्वारा प्रकाशित की गई थी।

MINISTRY OF COAL

New Delhi, the 21st August, 2012

S. O. 2700.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957, the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Coal number S.O. 2408 dated the 1st September, 2011 and published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 10th September, 2011, namely :—

In the Schedule to the said notification, under the heading "Block-B":—

- (a) under the sub-heading "Surface rights in or over the Plot numbers to be acquired in village Semrabera:", for the figures "775, 812", the figures and word "775 to 812" shall be substituted; and
- (b) under the sub-heading "Surface rights in or over the Plot numbers to be acquired in village Dhawaiya:", at the end, after the figures, letter and brackets "1230 (P)", the word and figures "and 1231" shall be inserted.

[F. No. 43015/19/2009 -PRIW-I]

A. K. DAS, Under Secy.

Foot Note :— The principal notification was published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 10th September, 2011 vide number S.O. 2408 dated the 1st September, 2011.

नई दिल्ली, 21 अगस्त, 2012

का.आ. 2701.—केन्द्रीय सरकार को यह प्रतीत होता है, कि इससे उपबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है ;

उक्त अनुसूची में वर्णित भूमि के अंतर्गत आने वाले क्षेत्र के बौरे रेखांक संख्या एसईसीएल/बीएसपी/सीजीएम/(पीएलजी)/भूमि/425, तारीख 17 अप्रैल, 2012 का निरीक्षण कलेक्टर, अनूपपुर (मध्य प्रदेश) के कार्यालयों में या कोयला नियंत्रक, 1, कांडसिल हाऊस स्ट्रीट, कोलकाता — 700001 के कार्यालय में या साक्षर ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर—495006 (छत्तीसगढ़) के कार्यालयों में किया जा सकता है ;

अतः, अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अनुसूची में वर्णित भूमि से कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है ;

उक्त अनुसूची में विहित भूमि में हितबद्ध कोई व्यक्ति—

- (i) संपूर्ण भूमि या उसके किसी भाग के अर्जन या ऐसी भूमि में या उस पर के किन्हीं अधिकारों के प्रति आक्षेप कर सकेगा; या
- (ii) भूमि में के किसी हित के प्रतिकर या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का दावा कर सकेगा; या
- (iii) प्रभावहीन हो गई पूर्वक्षण अनुज्ञितियों, खनन पट्टों के अधीन अर्जित किये जाने पर अधिकारों के लिए प्रतिकर प्राप्त कर सकेगा और उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट भूमि के कोरों से संग्रहण या अन्य खनिज नमूनों तथा उनके सम्बन्धीय विश्लेषण को तथा किसी अन्य सुसंगत अभिलेख या सामग्रियों की निर्मित से संबंधित सभी मानचित्र चार्ट और अन्य दस्तावेज परिदृष्ट कर सकेगा ।

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नव्वे दिन के भीतर, भारसाधक अधिकारी या विभागाध्यक्ष (राजस्व), साक्षर ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर—495006 (छत्तीसगढ़) को भेजेंगे ।

अनुसूची

सीतलधारा—कुरजा यू.जी. खदान-II, हसदेव क्षेत्र, तहसील—कोतमा, जिला—अनूपपुर (मध्य प्रदेश)

[रेखांक संख्या एसईसीएल/बीएसपी/सीजीएम/(पीएलजी)/भूमि/425, तारीख 17 अप्रैल, 2012]

सतही अधिकार :

क्रम सं	ग्राम का नाम	जनरल नम्बर	पटवारी हस्का नम्बर	तहसील	जिला	क्षेत्र हेक्टर में	क्षेत्र एकड़ में	टिप्पणी
1	2	3	4	5	6	7	8	9
1.	कोरजा	126	42	कोतमा	अनूपपुर	233.841	577.82	भाग
2.	दलदल	428	42	कोतमा	अनूपपुर	30.337	74.96	भाग
3.	पड़रीपानी	584	42	कोतमा	अनूपपुर	23.981	59.26	भाग
4.	रेवन्डा	895	48	कोतमा	अनूपपुर	29.574	73.08	भाग

कुल :- 317,733 हेक्टर (लगभग) या 785.12 एकड़ (लगभग)

सीमा वर्णन :

क-ख रेखा ग्राम कोरजा -रेवन्डा के सम्मिलित सीमा पर बिन्दु 'क' से आरंभ होती है और ग्राम कोरजा के पूर्वी भाग से होती हुई ग्राम कोरजा-पड़रीपानी के सम्मिलित सीमा पर बिन्दु 'ख' पर मिलती है ।

ख-ग रेखा ग्राम पड़रीपानी के पूर्वी भाग पर बिन्दु 'ख' से होती हुई ग्राम पड़रीपानी -दलदल के सम्मिलित सीमा पर बिन्दु 'ग' पर मिलती है ।

- ग-घ रेखा ग्राम दलदल के पश्चिमी और दक्षिणी भाग पर बिन्दु 'ग' से होती हुई ग्राम दलदल—परसापानी के सम्मिलित सीमा पर बिन्दु 'घ' पर मिलती है।
- घ-ड रेखा ग्राम दलदल—परसापानी के भागतः सम्मिलित सीमा पर बिन्दु 'घ' से होती हुई बिन्दु 'ड.' पर मिलती है।
- ड.-क रेखा ग्राम पठरीपानी के दक्षिणी भाग, ग्राम रेवन्डा के उत्तरी भाग पर बिन्दु 'ड' से होती हुई आरंभिक बिन्दु 'क' पर मिलती है।

[फा. सं. 43015/09/2012-पी.आर.आई.डब्ल्यू.-I]

ए. के. दास, अवर सचिव

New Delhi, the 21st August, 2011

S. O. 2701.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule annexed hereto;

And whereas, the plan bearing number SECL/ BSP/ CGM (PLG)/ Land/ 425, dated the 17th April, 2012 containing details of the area of land described in the said Schedule may be inspected at the office of the Collector, Anuppur (Madhya Pradesh) or at the office of the Coal Controller, 1, Council House Street, Kolkata-700001 or at the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur -495006 (Chhattisgarh);

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal from lands described in the said Schedule;

Any person interested in the land described in the said Schedule may—

- (i) object to the acquisition of the whole or any part of the land, or of any rights in or over such land; or
- (ii) claim an interest in compensation if the land, or any rights in or over such land; or
- (iii) seek compensation for prospecting licences ceasing to have effect, rights under mining lease being acquired, and deliver all maps, charts and other documents relating to the land, collection from the land of cores or other mineral samples and due analysis thereof and, the preparation of any other relevant record or materials referred to in sub-section (7) of Section 13 of the said Act.

to the officer-in-charge or Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Chhattisgarh) within a period of ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE

Sheetaldhara-Korja U/G Mine-II, Hasdeo Area, Tahsil- Kotma, District-Anuppur, Madhya Pradesh

[Plan bearing number SECL/BSP/CGM (PLG)/Land/ 425, dated the 17th April, 2012]

Surface Rights:

Sl. No.	Name of village	General number	Patwari haka number	Tahsil	District	Area in hectares	Area in acres	Remarks
1.	Korja	126	42	Kotma	Anuppur	233.841	577.82	Part
2.	Daldal	428	42	Kotma	Anuppur	30.337	74.96	Part
3.	Padripani	584	42	Kotma	Anuppur	23.981	59.26	Part
4.	Rewnda	895	48	Kotma	Anuppur	29.574	73.08	Part

Total: 317.733 hectares (approximately) or 785.12 acres (approximately)

BOUNDARY DESCRIPTION:—

- A-B Line starts from point 'A' on the common boundary of villages Rewnda - Korja and passes through eastern part of village Korja and meets at point 'B' on the common boundary of villages Korja-Padripani.
- B-C Line passes from point 'B' through the eastern part of village Padripani and meets at point 'C' on the common boundary of villages Padripani-Daldal.
- C-D Line passes from point 'C' through the western and southern part of village Daldal and meets at point 'D' on the common boundary of villages Daldal-Parsapani.
- D-E Line passes from point 'D' along a part of common boundary of villages Daldal-Parsapani and meets at point 'E'.
- E-A Line passes from point 'E' through the southern part of village Padripani, northern part of village Rewnda and meets at starting point 'A'.

[F. No. 43015/09/2012-PRIW-I]

A. K. DAS, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 25 जुलाई, 2012

क्र.आ. 2702.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इनफोर्मेंट अफिसर, प्रोविडेंट फंड, अमरावती और अदर्स के प्रबंधतात्र के संबद्ध नियोजकों और उनक कर्मकारों के लैंच, अमुंख में श्रीप्रद्युष औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारत/श्रम व्यवायालय नागपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी.एन.जी.पी./230/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 25-7-2012 को प्राप्त हुआ था।

[सं. एल-42012/62/2000-आई आर (डी.यू.) पार्ट]

सुरेन्द्र कुमार, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT—

New Delhi, the 25th July, 2012

S. O.2702.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/ NGP/230/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Enforcement officer, Provident Fund, Amravati and others and their workman, which was received by the Central Government on 25-07-2012.

[No. L-42012/62/2000-IR (DU)Pt.]

SURENDRA KUMAR, Section Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/230/2000 Date: 13-6-2012

Party No. 1(a) : The Enforcement Officer,
Provident Fund, Doles "Bungalow"

Maltakdi Road, Amravati. (M.S.)

(b) : Regional Provident Fund Commissioner
Sub-Regional Office, A/132-A, Ridge Rd.,
Sant Tukdeji Chowk, Raghibiji Nagar,
Nagpur-440009

Venues

Party No. 2 : Shri Pramod Prabhakarao Shelke,
R/o. Gurucharya Galaxy, Mr. Mahadev
Vidhyalaya, Satinagar, T.O. NIV, Amravati.

AWARD

(Dated: 13th June, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial

dispute between the employers, in relation to the management of President Fund and their workman, Shri Pramod Shelke, for adjudication, as per letter No. L-42012/62/2000-IR (DU) dated 31-7-2000, with the following schedule:—

"Whether the action of Regional Provident Fund Commissioner, Nagpur & Enforcement Officer, Provident Fund, Amravati in terminating the services of Sh. Pramod Prabhakarao Shelke w.e.f. 1-6-1999 is legal, proper & justified? If not, to what relief the said workman entitled and from what date?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Pramod, Shelke. (the workman" in short), filed the statement of claim and the management of Provident Fund, ("Party No. 1" in short) filed its written statement.

The case of the workman as projected in the statement of claim is that he passed H.S.S.C. Examination from Amravati Divisional Educational Board and registered his name in Amravati Employment Exchange and party no. 1(b), the Regional Provident Fund Commissioner directed party no. 1(a), the Enforcement Officer for appointment of one daily rated peon for office work and he applied for the said post and after making interview, the party no. 1 (a) appointed him in the post of the peon on 15-12-1997 by issuing an appointment order and he worked with party no. 1(a) from 15-12-1997 till 31-05-1999 continuously and he was paid daily wages for the said period and party no. 1 (a) prepared, bill for the first 3 ½ months in his name and his name was also mentioned in the attendance register alongwith Shri M.K. Dahiya, the clerk of party no. 1 (a) and after his working for 3 ½ months, i.e. after 31-03-1998, party no. 1 (a) prepared the daily wages bills in the name of fictitious and non existing persons, like Ramlal Pande, Ramash Bhigade, Sanjay Misra, Vinod Pande, Sharad Kale etc. and he was compelled to sign the vouchers in the name of the fictitious persons mentioned above and to keep mum, by party no. 1(a), under the threat of discontinuance of his service and as he was unemployed and was in dire need of employment, he signed all the vouchers in the name of the fictitious persons as mentioned above, and as he worked from 15-12-1997 to 31-05-1999 and completed more than 240 days of work in the preceding year, he ought to have been continued in service, but instead of allowing him to continue in service, the party no. 1(a) engaged some other employee on adhoc basis and on 01-06-1999, by an oral order, terminated his services in breach of the provisions of section 25-H of the Act and without compliance of the mandatory provisions of section 25-F of the Act, by adopting unfair labour practice and he made a representation on 09-06-1999, to the party nos. 1(a) and 1(b), to allow him, to continue in service on regular basis, by withdrawing the oral termination and party no. 1(b) vide letter dated 23-07-1999

refused to give continuation of service to him by referring false reason and as such on 07-12-1999, he raised the industrial dispute before the ALC (C) and during the conciliation proceedings, though the ALC directed the party no. 1 (a) to produce the workmen, who had been engaged from April, 1998 onwards or to furnish their full addresses, party no. 1 (a) neither produced the workmen nor submitted their full addresses, so the ALC in his report dated 07-04-2000 had mentioned that the workmen as mentioned in the written statement were never engaged by party no. 1 (a) and the documents filed by him clearly indicate that he worked from 15-12-1997 till 31-05-1999 and the party no. 1(a), on 01-06-1999 orally terminated his services without following the provisions of section 25-H of the Act and thus, the order of termination dated 01-06-1999 is void and he is entitled to continue in service. The workman has prayed to quash and set aside the oral order of termination dated 01-06-1999 and to reinstate him in service with continuity and full back wages.

3. The party nos. 1 (a) and 1 (b) filed a joint written statement and by denying the allegations mentioned in the statement of claim have pleaded inter-alia that they are Central Government departments and are not "Industry" and as such the Act is not applicable to them and the workman was engaged only from 15-12-1997 to 31-03-1998 on contract basis and was paid for the actual work done by him and except for the said period, he was never engaged by them and the workman abandoned the services voluntarily and there was no termination of his services by party no. 1(a) and the workman has made wild allegations against them, without any proof to suit his purpose and as they are Government Organisation and their working is based on strict norms and procedure, which had been adhered to and bills were prepared in the name of the workman from 15-12-1997 to 31-03-1998 and wages for the said period was paid to him and the name of the workman was never mentioned in the attendance register along with Shri M.K. Dahiya, the clerk and the workman is not entitled to any relief.

4. The workman though filed his evidence on affidavit, he did not appear for his cross-examination. Evidence of witness, Khusal Doiphode on affidavit was filed on behalf of the party no. 1 (a) and (b) and his evidence remained unchallenged, as none appeared on behalf of the workman to cross-examine him.

5. It is necessary to mention here that on 25-04-2007 award was passed by this Tribunal allowing the reference. It was held by the Tribunal that the action of the management in terminating the services of the workman orally is totally illegal. It was ordered that the workman should be treated to be in continuous service as a peon right from the date of his termination. The management was directed to reinstate him w.e.f. 31-05-1999 and to pay the full back wages.

Being aggrieved by the award, the party nos. 1(a) and 1(b) filed Writ Petition no. 4552/2007 before the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur and the Hon'ble High Court by order dated 03-07-2008 quashed and set aside the award and remanded the reference for fresh decision with directions to permit the party nos. 1 (a) and 1(b) to cross-examine the workman and granted liberty to the parties to lead further evidence if they so desire.

6. After remand of the reference, the workman was cross-examined on 17-11-2008. On the same day, evidence from the side of the workman was closed, as per the 'pursis' filed by the workman to that effect. Thereafter, the reference was adjourned for the cross-examination of the witness for the management. On 04-02-2009, the evidence of witness, Khushal Doiphode was filed on affidavit with service of copy of the same on the advocate for the workman. As the workman and his counsel remained absent, the reference suffered several adjournments for the cross-examination of the witness for the management and lastly on 07-07-2009, "No Cross" order was passed, as neither the workman nor anybody else appeared to cross-examine the witness for the management. On 23-11-2009, the workman and union representative of "Triratna General Kamgar Union" appeared in the reference and filed an application to recall the "No Cross" order. Management objected the appearance of the union representative, but after hearing the parties, the workman was allowed to be represented by the union representative. It is also necessary to mention here that after hearing the parties, the "no cross" order dated 07-07-2009 was recalled as per order dated 06-10-2010 and the case was fixed to 20-12-2010 for cross-examination of the witness for the management. As on 20-12-2010, neither the workman nor anybody else appeared to cross-examine the witness for the management, who was present for his cross-examination, again "no cross" order was passed and as the management filed a pursis to close the evidence, evidence from the side of the management was closed and the case was fixed for hearing of argument.

After several adjournments for argument, the workman on 20-07-2011 appeared in person and filed some documents with an application to take the same on record. After taking into consideration the facts and circumstances of the case and the grounds mentioned in the application, the application of the workman to take the documents on record was rejected on 25-04-2012 and the case was fixed to 09-05-2012 for argument. On 09-05-2012 as the workman remained absent, order was passed to proceed with the case ex parte against him and argument was heard from the side of the management and the case was posted for passing of award.

7. The workman in his examination-in-chief, which is on affidavit has reiterated the facts mentioned in the statement of claim. However, in his cross-examination, he

has admitted that he was appointed on daily rated as a peon and he does not know if the post of peon was sanctioned in the year 1998 and Mr. Morikar was the head of the office and after him, Mr. Doifode worked in the said post and he cannot say under whose instruction, he had signed in fake name and took the wages and he knows that signing in the name of another person and accepting the amount is an offence and he had not made any complaint to the higher officer alleging that though he was working, but the salary is paid to him in the name of another worker.

8. The evidence of the witness for the management, Kushal Doifode is also on affidavit. This witness in his evidence has reiterated the facts mentioned in the written statement. The evidence of this witness has remained unchallenged as none appeared on behalf of the workman to cross-examine him.

9. At the time of argument, it was submitted by the learned advocate for the management that the workman was engaged on contract basis from 15-12-1997 to 31-03-1998 only and he was paid for the actual work done by him and the workman abandoned his services voluntarily and no termination order issued by the party nos. 1 (a) and 1(b) and the evidence of the witness for the party no. 1 has gone unchallenged and the workman has failed to prove his case and he is not entitled for any relief.

10. In this case, it is found from the materials on record including Ext. W-6 that the workman was engaged by party no. 1 (a) on daily wages basis as a peon on 15-12-1997. The submission of the party no. 1(a) and 1(b) that he was engaged on contract basis from 15-12-1997 to 31-03-1998 is therefore found to be not true. According to the workman, he worked continuously from 15-12-1997 to 31-05-1999 with party no. 1 and completed more than 240 days of work in the preceding 12 months of the date of his oral termination on 01-06-1999 and his termination was without compliance of section 25-F of the Act. On the other hand, party nos. 1(a) and 1(b) have denied the same. According to them, the engagement of the workman was only for the period from 15-12-1997 to 31-03-1998 and the workman voluntarily abandoned the work and there was no order of termination of the services of the workman and therefore, there was no question of compliance of the provisions of section 25-F of the Act. In view of the denial of the party nos. 1(a) and 1(b) about the workman completing 240 days of work in the preceding 12 calendar months of the date of alleged termination i.e. 01-06-1999, the burden is on the workman to prove that in fact he had worked for 240 days in the preceding 12 calendar months of the date of termination. At this juncture, I think it proper to mention the settle principles regarding the application of section 25-B and 25-F of the Act, as enunciated by the Hon'ble Apex Court in the decisions mentioned below:—

The Hon'ble Apex Court, in the decision reported in AIR 1966 SC-75 (Employees, Digawadih Colliery Vs. Their workmen) have held that:—

"Though section 25-F speaks of continuous service for not less than one year under the employer, if the workman has actually worked for 240 days during a period of 12 calendar months both the conditions are fulfilled. The definition of "Continuous Service" need not be read into section 25-B. The fiction converts service of 240 days in a period of twelve calendar months into continuous service for one complete year. The amended section 25-B only consolidates the provisions of section 25(B) and 2(ee) in one place, adding some other matters. The purport of the new provisions, however, is not different. In fact, the amendment of section 25-F of the principal Act by substituting in clause (b) the words "for every completed year of continuous service" has removed a discordance between the unamended section 25-B and the unamended Cl. (b) of section 25-F. No uninterrupted service is necessary, if the total service is 240 days in a period of twelve calendar months—either before the several changes or after these. The only change in the Act is that this service must be during a period of twelve calendar months preceding the date with reference to which calculation has to be made. The last amendment has now removed a vagueness which existed in the unamended section 25-B".

In the decision reported in AIR 1981 SC-1253 (Mechanial Vs. M/s. Bharat Electronics Ltd.), the Hon'ble Apex Court have held that:

"Industrial Disputes Act (14 of 1947). Section 25-B (1) and (2)— Continuous service—Scope of sub-sections (1) and (2) is different, (words and phrases—Continuous Service).

Before a workman can complain of retrenchment being not in consonance with Section 25-F, he has to show that he has been in continuous service for not less than one year under that employer, who has retrenched him from service. Section 25-B as the dictionary clause for the expression "continuous". Both in principle and are precedent it must be held that section 25-B (2) comprehends a situation where a workman to not in employment for a period of 12 calendar months, but has rendered for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25-B and chapter V-A".

The Hon'ble Apex Court in the decision reported in AIR 2003 SC-38 (M/s. Essen Deinay Vs. Rajeev Kumar) have held that:

"Industrial Disputes Act (14 of 1947- S. 25-F, 10—Retrenchment compensation—Termination of services without payment of—Dispute referred to Tribunal—Case

of workman/claimant that he had worked for 240 days in a year preceding his termination—Claim denied by management—Onus lies upon claimant to show that he had in fact worked for 240 days in a year—In absence of proof of receipt of salary, the affidavit of the workman is not sufficient evidence to prove that he had worked for 240 days in a year preceding his termination.”

The Hon’ble Apex Court in the decision reported in (2005) 5 SCC 100 (Reserve Bank of India V/s. S. Mani) have held that:—

“Industrial Disputes Act, 1947—Ss. 25-F, 25-N, 25-B and II-240 days, continuous service—Onus and burden of proof with respect to—Burden of proof to discharge—Failure of Employee to prove a defence (of abandonment of service) if sufficient or unable to adduce—In an admission, discharging the said burden of proof on the workman discharged, merely because employer fails to prove a defence or an alternative plea of abandonment of service—Filing of affidavit of workman to the effect that he had worked for 240 days continuously or that the workman had repeated representations or raised demands for reinstatement, is not sufficient evidence that can discharge the said burden—Other substantive evidence needs to be adduced to prove 240 days continuous service—Instances of such evidence given:

The initial burden of proof was on the workmen to show that they had completed 240 days of service. The Tribunal did not consider this question from that angle. It held that the burden of proof was upon the appellant on the premise that they have failed to prove their plea of abandonment of service.

Filing of affidavit with only his own statement in his favour and that too without regard to sufficient evidence for any Court of Tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. Such evidence might include proof of receipt of salary or wages for 240 days or date or record of appointment or engagement for this period or the terms and conditions of his offer of appointment, orally examination of any other witness in support of his case.

So, it is clear from the principles enunciated by the Hon’ble Apex Court in the decisions mentioned above that for applicability of Section 25-F of the Act, it is necessary to prove that the workman worked for 240 days in the preceding 12 calendar months commencing and counting backwards from the relevant date and the burden of such proof is upon the workmen.

11. The present award has to be considered, with the touchstone of the principles enunciated by the Hon’ble Apex Court in the decisions mentioned above and it is to be found out, if the workmen have been able to prove that he had indeed worked for 240 days in the year preceding his termination. According to the workman,

his services were orally terminated on 01-06-1999. So, it is necessary to prove that in the preceding twelve calendar months of 01-06-1999, the workman had worked for 240 days.

On perusal of the materials on record, it is found that except his evidence on affidavit, the workman, has not produced any legal evidence to show that infact he had worked for 240 days in the preceding 12 calendar months of the alleged date of termination i.e. 01-06-1999. The most important thing in this case is that in his cross-examination, the workman has admitted that, “he was appointed on daily rated as a peon and he worked upto 15-12-1997 to 31-03-1998”. In view of the own admission of the workman that he worked for the period from 15-12- 1997 to 31-03-1998 and in absence of any legal evidence to prove that the workman had actually completed 240 days of work in the preceding 12 calendar months of 01-06-1999, the provisions of Section 25-F are not applicable to this case.

From the materials on record and the discussions made above, it is held that the amount is not entitled to any relief. Hence, it is ordered:—

ORDER

The action of Regional Provident Fund Commissioner, Nagpur and Enforcement Officer, Provident Fund, Amravati in terminating the services of Sh. Pramod Prabhakarao Sheik w.e.f. 01-06-1999 is legal, proper and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 26 जुलाई, 2012

का.आ. 2703.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पुणे के पंचाट (संदर्भ संख्या 6/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-7-2012 को प्राप्त हुआ था।

[सं. एल-12012/180/2005-आई आर (बी-I)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 26th July, 2012

S. O 2703.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 6/2006) of the Industrial Tribunal, Pune (Maharashtra) as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 26-07-2012.

[No. L-12012/180/2005-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE INDUSTRIAL TRIBUNAL
MAHARASHTRA AT PUNE**
Reference (IT) No. 6 of 2006

State Bank of India
East Street, Pune-411 001 First Party

AND

Shri Jagannath Balkrishna Mane
53, Chimanpura Peth
Behind Gare Ganpati
Satara City, Satara-415 002 Second Party

Coram : M.G. Choudhary, Presiding Officer

Appearances : Shri D.V. Kulkarni — Advocate for
First Party.

Second Party — Absent.

ORDER ON PRELIMINARY POINT

(13-6-2012)

The Government of India through Ministry of Labour in exercise of the powers conferred under section 10(1) (d) R/w Sec. 2A of the Industrial Disputes Act, 1947, referred the industrial dispute between the above named parties for its adjudication by this Tribunal.

2. The demand/industrial dispute which is referred for adjudication is mentioned in the schedule to the order of reference which reads as under :—

"Whether the action of the management of State Bank of India in imposing the punishment of discharging the services of Shri Jagannath Mane, w.e.f. 30-9-2002 is legal and justified? If not, to what relief the concerned workman is entitled?"

3. In response to the notices issued by this Tribunal, the Second Party workman appeared and filed statement of claim at Exh. U-2, and contended that he was in the employment of the First Party, worked since 5-2-1979 as sweeper-cum-watercarrier on temporary basis, and thereafter he was made permanent in the employment in the year 1986. According to the Second Party, some people have made false complaint against him. On that basis, he was given one chargesheet in August 2000; thereafter, enquiry was held. According to the Second Party, in the enquiry documents which were produced, copies of the same were not given to him, nor in the enquiry, opportunity was given to him. According to the Second Party, thereafter Enquiry Officer has given findings and those findings are perverse. Still the First Party without considering his defence properly discharged him from services. Thus, according to Second Party, action of the First Party is illegal and wrongful.

4. The First Party in his written statement at Exh. C-7 contended that the Second Party workman while

working in Subordinate Cadre employed at Satara (A.D.B.) Branch during the year 1999 committed very grave and serious misconduct such as preparing bogus salary slips, forging the signatures of Branch Manager, issuing false acknowledgment of pay-slips etc. As such, chargesheet dated 8-8-2000 was issued as per the misconduct defined under Sastry Award in para 521 (4) (d) (j), and thereafter enquiry was conducted on 6-10-2000, 10-10-2000, 17-10-2000 and 19-12-2000. According to First Party in the enquiry there was a Presenting Officer as well as Mr. P.N. Joshi was Defence Representative of the Second Party workman. In the departmental enquiry, 19 documents were submitted and witnesses were examined, those were offered for cross examination. On the basis of oral as well as documentary evidence led before the Enquiry Officer, according to the First Party, the Enquiry Officer has submitted his report on 12-3-2001 concluding therein that the charges levelled against the workman at charge no. 1 and 2 are proved, while charge no. 3 is not proved. Thereafter, the disciplinary authority issued show cause notice stating that disciplinary authority is not agreeing with the findings of the Enquiry Officer so far as it relates to charge No. 3 is concerned. Thereafter, the disciplinary authority recorded its own reason in respect of that findings i.e. on charge No. 3 and proposed punishment of discharged with superannuation benefits under the relevant service rules. Thus, according to the First Party in the departmental enquiry, full opportunity was given and charges levelled against the Second Party are duly proved. Thus, it is denied that action of the First Party against Second Party is illegal and wrongful, as alleged. It is denied that false charges were levelled against the Second Party.

5. The following issues are framed in the matter by my Learned Predecessor as preliminary issue at Exh. O-6, which arise for my determination —

1. Whether enquiry was just, fair and proper?
2. Whether findings recorded in the enquiry are perverse?
3. What order?

6. My findings to above issues for the reasons recorded below are as under —

1. Yes;
2. No;
3. See as per order below.

REASONS

7. The Second Party workman though served with the notice remained absent and not led any oral evidence in this matter. The First Party also not led any oral evidence in this matter. The First Party has produced enquiry papers (xerox copies) with list Exh. C-9. These enquiry papers were admitted by the Second Party. Hence, they are

exhibited as Exh. C-10 collectively, Exh. C-11 to C-14. The First Party also produced copy of the Enquiry Report with list Exh. C-16. With the help of the material on record, I have heard the argument of Advocate for First Party at length, and he has submitted his case as per material on record.

8. It appears from the record that as per the First Party employer, the Second Party has committed misconduct. Hence, as per terms of employment i.e. Sastry Award, chargesheet was given to the Second Party workman, and thereafter enquiry was held. It appears to me that in the enquiry documents were produced, the Second Party was allowed to engage his Defence Representative, he was given an opportunity to cross examine the management witness, defence statement was recorded, and thereafter the Enquiry Officer as well as disciplinary authority recorded its findings. Thus, if entire process of enquiry is considered in its proper perceptive, I am of the considered view that enquiry was conducted by the Enquiry Officer in accordance with the principles of natural justice. The Second Party workman through its pleading in the statement of claim completely failed to establish that what opportunity in defence was denied to him by the Enquiry Officer to say that enquiry was held in utter disregard of the principles of natural justice. The Second Party has not pleaded in its statement of claim what opportunity of defence was denied to him by the Enquiry Officer and what prejudice was caused to him in his defence. The entire burden is on the Second Party workman to establish that enquiry was illegal and wrongful. On the contrary, after perusal of the enquiry papers which are admitted by the Second Party workman all those enquiry papers are exhibited as mentioned above, I am of the considered opinion that the enquiry held against the Second Party workman is just, fair and proper. Hence, I answer Preliminary Issue No. 1 in the affirmative.

9. After perusal of the enquiry papers, it appears to me that as per the chargesheet dated 8-8-2000, three charges were levelled against the Second Party workman i.e. in respect of accepting Rs. 46,800 from Shri P.M. Kulkarni for entertaining his loan application, giving him false receipts later taking them back on the pretext that they were required to be enclosed to the loan application, not submitting the loan application and not even refunding the money upto 31-12-1998 as assured to him. The second charge was in relation to preparation of false salary certificate, forging Branch Manager's signature, obtaining loan from the co-operative society on production of false certificate, and the third charge was in relation of accepting Rs. 190 from Smt. Jagadale against her water bill and not crediting the same to the Bank account, giving false receipt by using Bank's "Cash Received" stamp.

10. It appears to me that in the enquiry Smt. Ranjan Dilip Jagadale PW1 was examined. Mr. Prakash Murlidhar Kulkarni PW2 was examined. Mr. Kishore Shivaji

Deshmukh PW3 was examined. The Second Party submitted his defence statement in writing and on that basis, the Enquiry Officer as well as Punishing Authority has drawn their findings declaring charges levelled against the Second Party workman as per chargesheet are duly proved. After perusal of the evidence in the enquiry, I am of the considered view that the Enquiry Officer as well as Punishing Authority have drawn their findings in accordance with the legal evidence in the enquiry. The Second Party workman in the statement of claim has not pleaded how the findings recorded by the Enquiry Officer as well as Punishing Authority are perverse and which evidence is not properly considered by the Enquiry Officer as well as Punishing Authority to say their findings are perverse. In absence of the pleadings in the statement of claim as well as absence of the oral evidence of the Second Party workman in this matter, I have no hesitation to declare that the findings recorded in the enquiry are not at all perverse. Hence, I answer Preliminary Issue No. 2 accordingly.

11. In view of my findings on above Preliminary Issue, I pass the following order :

ORDER

1. The enquiry held against Second Party is just, fair and proper and findings recorded in the enquiry are not at all perverse.
2. Case to proceed further.

M.G. CHOUDHARY, Presiding Officer

नई दिल्ली, 26 जुलाई, 2012

का.आ. 2704.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ने भारती एयरटेल सर्विस लि. कारपोरेट सेन्टर के प्रबंधतान के संभद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 18/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-7-2012 को प्राप्त हुआ था।

[सं. एल-40012/91/2011-आई आर (डी यू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 26th July, 2012

S.O. 2704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the M/s. Bharti Airtel Service Limited Corporate Centre, and their workman, which was received by the Central Government on 26-07-2012.

[No. L-40012/91/2011-IR (DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING
OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1,
KARKAROOOMA COURTS COMPLEX, DELHI**

I.D. No. 18/2012

Shri Raj Kumar Verma, S/o Shri Gokul Chand Verma,
C/o All India General Mazdoor Trade Union,
170, Bal Mukund Khand Giri,
Kalkaji, New Delhi

....Workman

Versus

M/s. Bharti Airtel Services Limited
Corporate Centre,
Neelgagan Mandi Road,
Sultanpur, Mehrauli,
New Delhi

....Management

AWARD

Shri Raj Kumar Verma joined services with M/s. Bharti Airtel Services Ltd. (in short the management) on 26-3-2008. When he got better opportunity elsewhere, he tendered his resignation, which was accepted by the management on 31-8-2010. He obtained his dues and left the management for better pastures. Subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-40012/91/2011-IR(DU), New Delhi dated 17-1-2012, with the following terms :

“Whether the action of the management of M/s. Bharti Airtel Services Limited in terminating the services of Shri Raj Kumar Verma, S/o Shri Gokul Chand Verma, Card No. 52428, Ex-Salesman with effect from 1-9-2010 is legal and justified? What relief the workman is entitled to ?”

2. In reference order, the appropriate Government commanded the claimant to file his claim statement alongwith the relevant documents and list of reliances within 15 days from receipt of the reference order. Despite the directions, so given, the claimant opted not to file his claim statement.

3. Notice was issued to the claimant by registered post on 16-2-2012 calling upon him to file his claim statement before the Tribunal on 6-3-2012. The said notice was sent to the claimant through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi, the address provided by the appropriate Government in the reference order. Neither the postal article was received back nor the claimant or anyone on his behalf appeared before the Tribunal. In view of above facts, it is presumed that the said notice was duly served on the claimant. Despite service of the notice, no claim statement was filed.

4. Another notice was sent by registered post on 12-3-2012 calling upon the claimant to file his claim statement on 26-3-2012. In response to the said notice, Shri Anil Rajput appeared on behalf of the claimant and sought time to file claim statement. At the request of Shri Rajput, matter was adjourned for 11-4-2012 for filing of claim statement.

5. On 11-4-2012, neither Shri Rajput nor anyone on behalf of the claimant appeared. Matter was adjourned for 27-4-2012 for filing of claim statement, but to no avail. Ultimately, it was again adjourned for today but no claim statement has been tendered. These facts make it clear that the claimant is not at all interested in projecting his grievances before the Tribunal.

6. When claim statement was not put forward, management was called upon to file its response to the reference order. In the response so filed, management projects that the claimant voluntarily resigned from the services and obtained his dues on 31-8-2010. Copy of resignation letter has been relied, besides statement of full and final payment made to the claimant. It has been projected that a sum of Rs. 1,865.00 was paid to the claimant towards full and final settlement of his dues on 31-8-2010. The amount was transmitted to the bank account of the claimant. After getting his terminal benefits, the claimant bade farewell to the management.

7. Out of facts projected in its response, which are supported by documents, the management put forward a case that the claimant resigned his job and obtained a sum of Rs. 1,865.00 from it towards full and final settlement of his dues. These facts are not disputed by and on behalf of the claimant. Hence stand of the management is accepted, for want of rebuttal. When the claimant has voluntarily resigned, it cannot be said that his services were terminated by the management, that too in an illegal manner. Consequently, it is concluded that the action of the management is legal and justified. No relief is called for in favour of Shri Raj Kumar Verma. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dr. R.K. YADAV, Presiding Officer

Dated : 25-6-2012

नई दिल्ली, 26 जुलाई, 2012

का.आ. 2705.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैं भारती एयरटेल सर्विस लि. कारपोरेट सेन्टर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचाट (संदर्भ संख्या 19/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-7-2012 को प्राप्त हुआ था।

[सं. एल-40012/92/2011-आई आर (डी यू.)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 26th July, 2012

S. O. 2705 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 19/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the M/s. Bharti Airtel Service Limited Corporate Centre, and their workman, which was received by the Central Government on 26-07-2012.

[No. L-40012/92/2011-IR (DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING
OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1,
KARKARDOOMA COURTS COMPLEX, DELHI**

I.D. No. 19/2012

Shri Jitender Kumar Rawat,
All India General Mazdoor Trade Union,
170, Bal Mukund Khand Giri,
Kalkaji, New Delhi

.... Workman

Versus

M/s. Bharti Airtel Services Limited
Corporate Centre,
Neelgagan Mandi Road,
Sultanpur, Mehrauli,
New Delhi

.... Management

AWARD

Shri Jitender Kumar Rawat joined services with M/s. Bharti Airtel Services Ltd. (in short the management) on 20-1-2006. When he got better opportunity elsewhere, he tendered his resignation, which was accepted by the management on 31-8-2010. He obtained his dues and left the management for better pastures. Subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-40012/92/2011-IR(DU), New Delhi dated 17-1-2012, with the following terms :

“Whether the action of the management of M/s. Bharti Airtel Services Limited in terminating the services of Shri Jitender Kumar Rawat, S/o Shri Radhey Shyam Rawat, Card No. 29646, Ex-Salesman with effect from 1-9-2010 is legal and justified? What relief the workman is entitled to?”

2. In reference order, the appropriate Government commanded the claimant to file his claim statement alongwith the relevant documents and list of reliances within 15 days from receipt of the reference order. Despite the directions, so given, the claimant opted not to file his claim statement.

3. Notice was issued to the claimant by registered post on 16-2-2012 calling upon him to file his claim statement before the Tribunal on 6-3-2012. The said notice was sent to the claimant through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi, the address provided by the appropriate Government in the reference order. Neither the postal article was received back nor the claimant or anyone on his behalf appeared before the Tribunal. In view of above facts, it is presumed that the said notice was duly served on the claimant. Despite service of the notice, no claim statement was filed.

4. Another notice was sent by registered post on 12-3-2012 calling upon the claimant to file his claim statement on 26-3-2012. In response to the said notice, Shri Anil Rajput appeared on behalf of the claimant and sought time to file claim statement. At the request of Shri Rajput, matter was adjourned for 11-4-2012 for filing of claim statement.

5. On 11-4-2012, neither Shri Rajput nor anyone on behalf of the claimant appeared. Matter was adjourned for 27-4-2012 for filing of claim statement, but to no avail. Ultimately, it was again adjourned for today but no claim statement has been tendered. These facts make it clear that the claimant is not at all interested in projecting his grievances before the Tribunal.

6. When claim statement was not put forward, management was called upon to file its response to the reference order. In the response so filed, management projects that the claimant voluntarily resigned from the services and obtained his dues on 31-8-2010. Copy of resignation letter has been relied, besides statement of full and final payment made to the claimant. It has been projected that a sum of Rs. 11,650.00 was paid to the claimant towards full and final settlement of his dues on 31-8-2010. The amount was transmitted to the bank account of the claimant. After getting his terminal benefits, the claimant bade farewell to the management.

7. Out of facts projected in its response, which are supported by documents, the management put forward a case that the claimant resigned his job and obtained a sum of Rs. 11,650.00 from it towards full and final settlement of his dues. These facts are not disputed by and on behalf of the claimant. Hence stand of the management is accepted, for want of rebuttal. When the claimant has voluntarily resigned, it cannot be said that his services were terminated by the management, that too in an illegal manner. Consequently, it is concluded that the action of the management is legal and justified. No relief is called for in favour of Shri Jitender Kumar Rawat. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated : 25-6-2012

नई दिल्ली, 26 जुलाई, 2012

का.आ. 2706.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम/एस. भारती एयरटेल सर्विस लि. कारपोरेट सैन्टर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 21/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-7-2012 को प्राप्त हुआ था।

[सं. एल-40012/95/2011-आई आर (डीयू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 26th July, 2012

S. O. 2706—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 21/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the M/s. Bharti Airtel Service Limited Corporate Centre, and their workman, which was received by the Central Government on 26-7-2012.

[No. L-40012/95/2011-JR (DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING
OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1,
KARKAROOOMA COURTS COMPLEX, DELHI**

I.D. No. 21/2012

Shri Madhukar Kumar Chaudhary,
C/o All India General Mazdoor Trade Union,
170, Bal Mukund Khand Giri,
Kalkaji, New Delhi

...Workman

Versus

M/s Bharti Airtel Services Limited
Corporate Centre,
Neelgagan Mandi Road,
Sultanpur, Mehrauli
New Delhi

...Management

AWARD

Shri Madhukar Kumar Chaudhary joined services with M/s. Bharti Airtel Services Ltd. (in short the management) on 12-2-2007. His services were dispensed with on 17-2-2011, in consonance with stipulation contained in terms of contract of service. He obtained his dues and left the management for better pastures. Subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this

Tribunal for adjudication, vide order No. L-40012/95/2011-JR(DU), New Delhi dated 12-1-2012, with the following terms:

“Whether the action of the management of M/s. Bharti Airtel Services Limited in terminating the services of workman, Shri Madhukar Kumar Chaudhary, Ex-Salesman with effect from 1-9-2010 is legal and justified? What relief the workman is entitled to ?”

2. In reference order, the appropriate Government commanded the claimant to file his claim statement alongwith the relevant documents and list of reliances within 15 days from receipt of the reference order. Despite the directions given, the claimant so opted not to file his claim statement.

3. Notice was issued to the claimant by registered post on 16-2-2012 calling upon him to file his claim statement before the Tribunal on 6-3-2012. The said notice was sent to the claimant through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi, the address provided by the appropriate Government in the reference order. Neither the postal article was received back nor the claimant or anyone on his behalf appeared before the Tribunal. In view of above facts, it is presumed that the said notice was duly served on the claimant. Despite service of the notice, no claim statement was filed.

4. Another notice was sent by registered post on 12-3-2012 calling upon the claimant to file his claim statement on 26-3-2012. In response to the said notice, Shri Anil Rajput appeared on behalf of the claimant and sought time to file claim statement. At the request of Shri Rajput, matter was adjourned for 11-4-2012 for filing of claim statement.

5. On 11-4-2012, neither Shri Rajput nor anyone on behalf of the claimant appeared. Matter was adjourned for 27-4-2012 for filing of claim statement, but to no avail. Ultimately, it was again adjourned for today but no claim statement has been tendered. These facts make it clear that the claimant is not at all interested in projecting his grievances before the Tribunal.

6. When claim statement was not put forward, management was called upon to file its response to the reference order. In the response so filed, management projects that services of the claimant were dispensed with in consonance with the stipulation contained in contract of service. The act of the management does not amount to retrenchment. It has been projected that a sum of Rs. 3,730.00 was paid to the claimant towards full and final settlement of his dues on 17-2-2011. The amount was transmitted to the bank account of the claimant. After getting his terminal benefits, the claimant bade farewell to the management.

7. Out of facts projected in its response, which are supported by documents, it came to light that the services of the claimant were dispensed with in accordance with contract of his service and his case falls within sub-clause (bb) of clause (oo) of Section 2 of the Industrial Disputes Act, 1947. Action taken by the management does not amount to retrenchment. The claimant obtained a sum of Rs. 3,730.00 from the management towards full and final settlement of his dues. These facts make out that the action of the management is legal and justified. No relief is called for in favour of Shri Madhukar Kumar Chaudhary. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dr. R.K. YADAV, Presiding Officer

Dated: 25-6-2012

नई दिल्ली, 26 जुलाई, 2012

का.आ. 2707.—औद्योगिक विवाद अधिनियम 1947 (1947 का 4) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुसंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के पंचाट (संदर्भ संख्या 35/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-7-2012 को प्राप्त हुआ था।

[सं. एल-12012/289/2002-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 26th July, 2012

S. O. 2707.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No.35/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of State Bank of India, and their workmen, received by the Central Government on 26-7-2012.

[No. L-12012/289/2002-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of
the Industrial Disputes Act, 1947

Reference No. 35 of 2003

Parties : Employers in relation to the management of
State Bank of India, Patna

AND

Their Workmen

PRESENT : SHRI H. M. SINGH, PRESIDING OFFICER

Appearances :

For the Employers : Shri S.N. Goswami, Advocate

For the Workman : Shri D. Mukherjee, Advocate

State : Bihar Industry : Bank

Dated, the 10-7-2012

AWARD

By Order No.L-12012/289/2002-IR(B-I) dated 28-3-2003 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of State Bank of India, Krishi Vikash Branch, Nowada, Bihar in terminating the service of Sri Ramji Prasad is justified? If not, what relief the workman is entitled?”

2. The case of the concerned workman is that he was initially appointed at State Bank of India, Krishi Vikash Branch, Nowada in the year 1985 against permanent vacancy and in each year he had put in more than 240 days attendance. The management with an ulterior motive to exploit and to victimise the concerned workman had been paying the petitioner only Rs. 150 per month though he had been working for full 8 hours duty as per direction and supervision of the Bank-management. The concerned workman represented before the management against the illegal and arbitrary payment of wages and not maintaining statutory documents regarding the engagement of the concerned workman but unfortunately the management did not take any cognizance of the same and the management raised the amount of payment to the tune of Rs. 350 per month and paying the same through cheque only to camouflage the real issue and to conceal the real fact. The concerned workman represented before the management several times for payment of wages and other statutory benefits at par with other permanent employees which annoyed the management to the extent of stopping him from service w.e.f. 25-1-2002. The management terminated the services of the concerned workman without assigning any reason and without complying with the mandatory provision of law and in violation of the principle of natural justice. Seeing no other alternative an industrial dispute was raised before A.L.C. (C), Patna which ended in failure. Thereafter the present dispute has been referred to this Tribunal by the appropriate Government for adjudication.

It has been prayed that the Hon'ble Tribunal be pleased to answer the reference in favour of the workman by directing the management to reinstate the concerned workman with full back wages.

3. The case of the management is that the person concerned was never appointed by the employers at any

time and in any post what so ever. It is relevant to mention that in case of vacancy in any part under the employers, the same is filled up after adopting and observing the procedures and rules for recruitment of State Bank of India and no body is empowered to appoint any person directly of his own without sanction. It has been submitted that as one of measures of welfare activity, the employers subsidises the cost of running a canteen at most of its branches. These canteens are run by local Implementation Committee consisting of members of the staff at the branches concerned and not by the employers directly or departmentally. The Local Implementation Committee is fully responsible for running the said canteen, look after all affairs of such canteen, including appointment of canteen boys and payment of wages to them and such canteen boys are the employees of Local Implementation Committee and not State Bank of India by any means. The State Bank of India is in no way connected with the management of canteens and also canteen management is neither incidental nor connected with any of the functions concerning banking operation. The employers are in no way responsible for appointment or removal of canteen employees. The person concerned was engaged by the Local Implementation Committee of State Bank of India, Agriculture Development Branch, Nawada, Bihar and he was the employee of Local Implementation Committee of the said Branch. The person concerned was asked to work as a water boy/sweeper at A.D.B. Nawada for 136 days in 1995 and 26 days in 1996 purely on casual basis or temporary basis only in part time for which he was paid on daily wage separately which does not entitle him to claim for regular appointment under the employers.

Accordingly, it has been prayed before Tribunal to held that the action of the management of State Bank of India is justified and the person concerned is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workman produced himself as WW-1(Ramji Prasad) and proved documents as Ext. W-1 series and W-2 series.

The management produced MW-1, Lakshmi Panjyai.

6. Main argument advanced on behalf of the concerned workman is that he was working as permanent workman in the Bank since 1985 for 8 hours daily, but the management was paying him only Rs. 150 per month and later on his wage was enhanced to Rs. 350 per month and the management terminated his service w.e.f. 25-9-2002

illegally on the ground that he was appointed by the Local Implementation Committee working in the canteen of the Bank. It has been argued that the concerned workman filed petition dated 1-2-2006 and also by petition dated 5-10-05 calling for some items of documents from the management, but the management has not given any hood to these petitions.

7. In this respect the management's representation argued that the concerned workman is Canteen Boy and he was appointed by the Local Implementation Committee. He cannot be regularised by the Bank as he is not employee of the Bank.

8. In this respect the management's witness MW-1, Lakshmi Panjyai, is very much material. He has stated in his cross-examination that we have not filed any document to show the contention that the concerned workman was appointed by Local Implementation Committee. Bank is statutorily required to maintain a canteen depending on the strength of the staff. I know that the concerned workman called for three items of documents. These documents will show that in which capacity the concerned workman worked in the Bank. These are pretty cash vouchers which bear the signature of the Br. Manager, marked Ext. W-1 series. This is Peon Book of the Branch, Ext. W-2 series. There is no document filed to show that Br. Manager is not empowered.

The statement of the management's witness shows that the concerned workman called documents from the management which has not been filed by the management. Moreover, the management has failed to file any document to show that the concerned workman was appointed by the Local Implementation Committee.

9. On behalf of the concerned workman SCIJ (Vol-X) page 21 has been referred in which Hon'ble Supreme Court laid down - "Bombay Industrial Relations Act, 1946, S. 3 (13), (14) - Factories Act, 1948, Canteen workers employed by Co-operative Society are employees of appellant company within meaning of Bombay Industrial Relations Act, 1946."

Another law referred 2000 (85) FLR 672 in which Hon'ble Supreme Court laid down :—

"Industrial Disputes Act, 1947 - Section 25-0- Canteen employees - Canteen facilities provided to employees by Bank - Canteen run from 1-1-73 and closed in 1990 - Bank has unmistakably undertaken the obligation to provide canteen services to employees - Thus the canteen employees were workman of bank - Their claim of reinstatement sustainable - Directed to reinstate them as Class-IV employees."

Also referred 2008 LLR 509 in which Hon'ble Supreme Court laid down -

"Canteen Workers through Contractor - Absorption of - By the principal employer - When the canteen is required to be run under Section 46 of the Factories Act, 1948 - There were 27 canteen workers working for many years through the contractors who were changing but the workers remained the same - Complaint for unfair labour practice on behalf of canteen workers accepted by the Industrial Court - High Court confirmed the order since the canteen has been a part of establishment of the Management and the workers in canteen were carrying on the work which was perennial nature - Canteen has been incidental to and connected with the work of establishment of the Management - Though treating the workers as contract employees contrary to the statutory obligation and the judicial pronouncement of the Apex Court -Management filing appeal before the Supreme Court Relying upon the judgement of 3-judges bench in Petrochemical Corporation Limited & Ors with identical facts held that the fact is that the canteen in establishment of the Appellant - Management is a statutory canteen - The respondents -workman are in fact workman of the Appellant -Management."

Another law referred on behalf of the workman is 2009 (120) FLR 143 in which Hon'ble Supreme Court laid down - "U.P. Industrial Disputes Act, 1947 - Sections 4-K., 6-N, 6-P and 6-Q - Service - Termination- Validity - Contention of appellant that there was no employer-employee relationship between the appellant and the respondents - On basis of documents submitted by the workman and for lack of proper rebuttal to such documents there was no ground to presume that workman were employees of the contractor - In fact they were in regular employment of appellant as cashiers having worked more than 240 days - Tribunal rightly concluded that termination of service of respondents without notice and of compensation was illegal."

Also referred 2001 LLR 961 in which Hon'ble Supreme Court laid down —

"Contract Labour (Regulation & Abolition) Act, 1970- Section 2(1)(a) - 'Appropriate Government' - Criteria to determine and identification of - In the case of a Central Government Company/Undertaking, an instrumentality of the Government - Carrying on an industry -The criteria to determine whether the Central Government is the appropriate government within the meaning of the Contract Labour (Regulation & Abolition) Act- The industry must be carried on by or under the authority of the Central Government and not that the Company/Undertaking is an instrumentality or an agency of the Government. The

appropriate Government for the Central Government or State for central under takings would be those covered under Section 2(a) of the Industrial Disputes Act:-

HELD

Under Contract Labour (Regulation & Abolition) Act the industry must be carried on only or under the authority of the Central Government and not that the company/undertaking is an instrumentality or an agency of the Government, for purposes of Article 12 of the Constitution, such as authority may be conferred either by a statute or by virtue of relationship of principal employer and agent of delegation of power and this fact has to be ascertained on the facts and in the circumstances of each case, in view of this conclusion, with due respect, the view expressed by the learned Judges on interpretation of the expression "Appropriate Government" in 'Air India' case (supra) cannot be agreed. Thus, the appropriate government for the Central Undertaking would be those covered under Section 2(a) of the Industrial Disputes Act, 1947.

HELD

While overruling the judgement of this court in Air India's case prospectively it is declared that any direction issued by any industrial adjudication/any court including High Court or absorption of contract labour following the judgement in Air India's case (supra) shall be held good and that the same shall not be set aside, altered or modified on the basis of this judgement in cases where such a direction has been given effect to and it has become final."

10. Considering the above facts and circumstances it shows that the concerned workman was working with the Bank since 1985 and he was being given petty wages and the documents which have been demanded have not been filed which may show in which capacity the concerned workman worked in the Bank. The management has also failed to file any document to show that the concerned workman was appointed by the Local Implementation Committee.

11. Considering the above facts and law laid down by Hon'ble Supreme Court, I hold that the action of the management of State Bank of India, Krishi Vikash Branch, Nawada, Bihar, in terminating the service of Sri Ramji Prasad is not justified. Hence, the concerned workman is entitled to be reinstated in service with 50% back wages with all consequential benefits. The management is directed to implement the award within 30 days from the date of publication of the award in the Gazette of India.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 27 जुलाई, 2012

का.आ. 2708.——औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पूर्वोत्तर रेलवे के प्रबंधनतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 112/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था।

[सं. एल-41012/11/2002-आई आर (बी-1)]

रमेश सिंह, डेरेक अधिकारी

New Delhi, the 27th July, 2012

S. O. 2708.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 112/2002) of the Cent. Govt. Indust. Tribunal-Cum- Labour Court, Lucknow as shown in the Annexure in the industrial dispute between the management of Purvottar Railway and their workmen, received by the Central Government on 27-7-2012.

[No. L-41012/11/2002-IR(B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

Present Dr. Manju Nigam Presiding Officer

I.D. No. 112/2002

Ref. No. L-41012/11/2002-IR (B-I) dated : 19-06-2002

Between :

Shri Ram Sewak S/o Din Dayal
R/o Village—Khatausa, PO—Bhaliya Bujurg
Distt. Lakhimpur Khiri

AND

The Divisional Engineer
Purvottar Railway
DRM Office, Lucknow/
Asstt. Engineer

Purvottar Railway, Office Asstt. Engineer
Sitapur (U. P.)

AWARD

1. By Order No. L-41012/11/2002-IR (B-I) dated 19-6-2002 the Central Government, in the Ministry of Labour New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Ram Sewak S/o Din Dayal, R/o Village—Khatausa, PO—Bhaliya Bujurg, Distt. Lakhimpur Khiri and the Divisional Engineer, Purvottar Railway, DRM Office, Lucknow/Asstt. Engineer, Purvottar Railway, Office Asstt. Engineer, Sitapur (U. P.) for

adjudication.

2. The reference under adjudication is :

"Kya rail prabandhan dwara bina vidhik prakriya apnaaye karmkaar Shri Ram Sewak putra Shri Din Dayal, gangman ko dinank 24-4-2000 se 1-5-2000 tak anupasthit maankar ukt Awadhi ki vetan katauti tatha 2001 evam 2002 ke che set suvidha paas band kar dandit kiya jana uchit evam vadhanik hai? yadi nahi to karmkaar kis anutosh ka hakdaa hai?"

3. It is admitted case of the parties that the workman, Ram Sewak, was issued a minor penalty charge sheet under Railway Servant (Discipline & Appeal) Rules, 1968 for alleged misconduct of unauthorized absence for the period 24-4-2000 to 1-5-2000; and after submission of reply by the workman to the said charge sheet, the punishment order dated 18-07-2000 was issued; whereby six set of privilege pass to the workman for the year 2001 and 2002 were stopped.

4. The workman has alleged that he requested the opposite party for casual leave for the period 24-4-2000 to 1-5-2000 through telegram; and this fact was mentioned in his reply to the charge sheet but the management, ignoring this fact imposed penalty upon him and also did not pay salary for the said period. He has further alleged that the said penalty order dated 18-07-2000 was issued without considering reply of the workman is contrary to the Rules and accordingly, has prayed that said penalty order dated 18-07-2000 be quashed and he be paid salary for the period 24-4-2000 to 1-5-2000.

5. The management of the Railways has in his written statement has rebutted the contentions of the workman that he requested for casual leave for the period 24-4-2000 to 1-5-2000 through telegram. Moreover, it is submitted that the onus is upon the workman to produce strict proof that any telegram or any application had been received in the office of the opposite party. It is further submitted that the action of the management in issuing charge sheet and punishment order was in accordance with the rules and the principles of natural justice were adequately observed while passing the punishment order. It was further alleged that workman has never preferred any appeal against the punishment order served upon him as provided under rules. Besides it was submitted that non-filing of appeal tantamount admission of punishment order. The present claim is bared by principle of estoppel and waiver: hence, is liable to be dismissed out rightly.

6. The workman did not file any rejoinder in spite of ample opportunity had been afforded to him.

7. Likewise he did not file any evidence in support of his case, which led into the presumption vide order dated 2-9-2006 that the workman does not want to give any evidence in support of his claim; and accordingly the management was called upon to file its evidence. The workman moved an application C-38 to recall the order

dated 20-09-2006, which was allowed vide order dated 23-03-2007. The workman again failed to file any evidence on several dates and accordingly his opportunity to file evidence was closed vide order dated 24-09-2008. The workman again moved an application C-41 to recall order dated 24-09-2008, which was rejected for want of affidavit in support of application to recall. The workman again moved application, W-42, to recall the order dated 24-09-2008, with an affidavit, which was allowed and the workman was afforded opportunity to lead its evidence.

8. The workman filed its evidence on 19-08-2009; but did not turn up for cross-examination on several dates; accordingly his cross-examination was closed vide order dated 27-11-2009 and the management was given opportunity to file its evidence. The opposite party too did not bother to file any evidence and accordingly its opportunity too was closed; and the case was fixed for arguments vide order dated 2-11-2010. Thereafter, neither parties filed any application to recall the ex parte orders against them.

9. The case is being listed for arguments since 15-12-2010 and since then neither of the parties come forward to make their oral submissions. Accordingly, the file is reserved for award keeping in view the reluctance of the parties to contest their case and the fact that the case pertain to year 2002.

10. It was the case of the workman that he had been penalized illegally vide penalty order dated 18-07-2000 without taking into consideration his reply to the charge sheet served to him; wherein he submitted that he informed the management about his absence through telegram. He filed photocopy of the documents in support of his case vide list dated 31-7-2009 and also, filed original documents vide list dated 07-08-2003. He did not enter the witness box to substantiate his version:

11. Per contra, the management of the railway has disputed the claim of the workman that he informed the opposite party about his absence and requested for leave through telegram with submission that no telegram was received in the office. The management further submitted that it was onus of the workman to prove that he informed the opposite party through telegram. The management has defended its action and procedure adopted by it.

12. I have scanned entire, evidence on record. The workman has prayed that action of the management be quashed being illegal and he be paid salary for the period of his absence. The workman has neither filed any documentary proof to effect that he informed the management about his absence and requested for casual leave from 24-4-2000 to 1-05-2000 through telegram nor has substantiated his stand through oral evidence as the affidavit filed by him cannot be taken into consideration for the want of his cross-examination.

13. It is the case of the workman that the penalty

order dated 18-7-2000 was issued by the management of the railways without taking into consideration his reply to the charge sheet that he informed the opposite party about his absence and requested for casual leave from 24-4-2000 to 1-5-2000 through telegram.

14. The workman has not file any documentary evidence to show that he actually sent any telegram to the opposite parties. Further, he did not turn for cross-examination, which led to non-appreciation of his affidavit in evidence. Thus, there was no oral or documentary evidence to support the case. Mere pleadings are no substitute for proof. It was obligatory on the part of workman to come forward with the case that the alleged illegality was done to him, ignoring his reply to the charge sheet; but the workman failed to forward any evidence in support of its claim, as it did not turn up for cross-examination.

Besides, Section 11 A of the Industrial Disputes Act has been enacted to empower the Labour Court to interfere with that management's decision to dismiss, discharge or terminate the services of a workman in such cases. In respect of other punishments, it has been observed and consistently held by the Courts that the tribunal does not have power to substitute its own judgment for that of the management. Hon'ble Apex Court in South Indian Cashew Factories Workers' Union vs. Kerala State Cashe Development Corp. Ltd (2006) 5 SCC 201 made the following observations:

"Section 11-A of the Act gives ample power to the Labour Court to re-appraise the evidence adduced in the enquiry and also sit in appeal over the decision of the employer in imposing punishment. Section 11-A of the Industrial Disputes Act is only applicable in the case of dismissal or discharge of a workman as clearly mentioned in the section itself :

15. Whether similar power can be exercised by the Labour Court where the punishment award is neither dismissal, punishment or retrenchment? This issue has been considered by Hon'ble Allahabad High Court in Allahabad Bank vs. Presiding Officer, Central Govt. Industrial Tribunal-cum- Labour Court, Kanpur & others 2012 (133) FLR 1098; where it has observed that :

"Section 11-A empowers the Labour Court to re-appreciate the evidence and correct the judgment, in case of discharge, dismissal and termination, while in case of other punishments, no such power is vested with the Labour Court".

16. There is no reliable material for recording findings that the alleged illegality was committed to the workman or the action of the management of railway in imposing minor penalty upon the workman vide order dated 18-07-2000 was illegal.

17. Accordingly, in view of the above decision of Hon'ble Supreme Court, I am of opinion that the

punishment order 18-7-2000 is need not to be interfered by this Tribunal. Hence, the reference is adjudicated against the workman; and as such, I come to the conclusion that the workman, Ram Sewak is not entitled to any of the relief(s) claimed by him.

18. Award as above.

Lucknow.

17-07-2012.

Dr. MANJU NIGAM, Presiding Officer
नई दिल्ली, 27 जुलाई, 2012

का.आ. 2709.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पूर्व रेलवे के प्रबंध-तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 151/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था।

[सं. एल-41012/51 और 56/2002-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 27th July, 2012

S. O. 2709.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. 151/2002) of the Cent. Govt. Indust. Tribunal-Cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Eastern Railway and their workmen, received by the Central Government on 27-07-2012.

[No. L-41012/51 & 56/2002-IR (B-I)]
RAMESH SINGH, Desk Officer
ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW**

Present : Dr. Manju Nigam, Presiding Officer

L.D. No. 151/2002

Ref. No. L-41012/51 & 56/2002-IR (B-I) dated : 21-08-2002

Between

Shri Ram Sewak S/o Din Dayal
Pravar Gangman R/o Vill.—Khadoria,
Post—Bhaliabuzurg
Distt. Lakhimpur Khiri/
Bhartiya Mazdoor Sangh Uttar Pradesh,
6, Navin Market Kesarbagh
Lucknow (UP)-226 001

AND

The Sr. Section Engineer (Railpath)
Eastern Railway
Lakhimpur
AWARD

1. By Order No. L-41012/51 & 56/2002-IR (B-I) dated 21-08-2002 the Central Government, in the Ministry of Labour New Delhi in exercise of powers conferred by

clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Ram Sewak S/o Shri Din Dayal,—Pravar Gangman, R/o Village—Khadoria, Post—Bhaliabuzurg, Distt. Lakhimpur Khiri/Bhartiya Mazdoor Sangh Uttar Pradesh, 6, Navin Market, Kesarbagh, Lucknow (UP) and the Sr. Section Engineer (Railpath), Eastern Railway, Lakhimpur for adjudication.

2. The reference under adjudication is :

“Kya rail prabandhan dwara Shri Ram Sewak putra Shri Diyasai pravar gangman ko dandak le dinank 19-07-2000 ke dwara agamni 62 varsh ki uttan sviddhi asthai roop se band kiya jana va dandaadesh dinank 15-10-2000 ke dwara varsh 2000 ke 03 set sevihadha paas va chaar set svividha ticket band kiya jana nayyochit tatha nayysangat hai ? Yadi nahi, to karmkaar kis anutosh ka adhikari hai ?”

3. It is admitted case of the parties that the workman, Ram Sewak, was issued two minor penalty charge sheets dated 14-09-99 and 27-06-2000 under Rule 11 of Railway Servant (Discipline & Appeal) Rules, 1968 for alleged misconduct of negligence in performing his duties and indiscipline & misbehavior; and after submission of reply by the workman to the said charge sheet, the punishment orders dated 15-10-99 and 15-07-2000 was issued; whereby alleged punishments have been imposed upon the workman.

4. The workman has alleged that the management of the railways has imposed punishment upon him without adopting laid down procedure of enquiry and without taking into consideration his reply to the charge sheets; and accordingly, has prayed that said penalty orders dated 15-10-99 and 15-07-2000 be quashed and he be given increments withheld and other benefits of which he had been deprived of due to penalty orders.

5. The management of the Railways in their written statement has rebutted the contentions of the workman and has submitted that the punishment orders were passed perfectly in accordance with the Rules and Regulations of the Indian Railways with proper application of mind. It has further submitted that the charge sheet was issued under Rule 11 of the Railway Servants (Discipline & Conduct) Rules, 1968, which is a minor punishment charge sheet; hence no enquiry is required under law. Accordingly it has prayed that the claim of the workman be rejected outrightly.

6. The workman has filed rejoinder; wherein he has not brought any new fact and has just repeated the averments already made by him in the statement of claim.

7. The workman did not file any evidence in support of his case, which led into the presumption vide order dated 19-07-2006 that the workman does not want to give any evidence in support of his claim; and accordingly the management was called upon to file its evidence. The rejoinder and an application to amend the claim statement

filed by the workman was rejected vide order dated 01-11-2006 being not signed by the workman. The workman was again given opportunity to file its evidence vide order dated 30-11-2006; but he again failed to file any evidence and accordingly, vide order dated 18-12-2006 the management was again called for filing its evidence. The management examined Shri Shilpi Majumdar, Head Clerk in support of their case; but the workman did not cross-examine the witness though he was afforded such opportunity; and 18-05-2007 was fixed for arguments.

8. The workman moved an application W-42 to recall the order dated 20-09-2006, which was allowed vide order dated 18-12-2006, which was allowed. The workman filed its evidence on affidavit on 19-08-2009; but failed to produce himself for cross-examination on several dates and accordingly his evidence was closed on 27-11-2009 and the case was fixed for 07-01-2010 for argument.

9. The case is listed for arguments since 07-01-2010 and since then neither of the parties come forward to make their oral submissions. Accordingly, the file is reserved for award keeping in view the reluctance of the parties to contest their case and the fact that the case pertain to year 2002.

10. It was the case of the workman that he had been penalized illegally vide penalty order dated 15-10-99 and 15-7-2000 without taking into consideration his reply to the charge sheet served to him; He filed photocopy of the documents in support of his case vide list dated 12-8-2004. He did not enter the witness box to substantiate his version as though he filed his evidence but did not come forward to get cross-examined.

11. Per contra, the management of the railway has disputed the claim of the workman that the penalty orders were issued arbitrarily and without observing due procedure of law. The management has defended its action and procedure adopted by it and has submitted that the workman was issued minor penalty charge sheets under Rule 11 of the Railway Servants (Discipline & Conduct) Rules, 1968, which is a minor punishment charge sheet; hence no enquiry was required under Rules. The management witness has confirmed the issuance of charge sheets to the workman and also that of penalty order for alleged misconducts. The witness further stated that the charge sheet being for minor punishment, there was no need for conducting any formal enquiry under Railway Rules.

12. I have scanned entire, evidence on record. The workman has prayed that the penalty orders issued by the management be quashed being illegal and he be given all benefits, which he had been deprived of due to impugned orders. The workman has not substantiated his version through cogent evidence as he failed to get cross-examined by the opposite party whereas on the contrary the management through its evidence has well established that its action in issuing charge sheet and that of impugned orders dated 15-10-99 and 15-07-2000 were in accordance with the Rules and there was no infirmity with them; and also that there was no need of conducting any formal

enquiry before imposing any minor penalty.

13. It is the case of the workman that the penalty orders dated 15-10-99 and 15-07-2000 were issued by the management of the railways without taking into consideration his reply to the charge sheets and without following due procedure.

14. The workman has not turned up for cross-examination, which led to non-appreciation of his affidavit in evidence. Thus, there was no oral or documentary evidence to support the case to substantiate his pleading that alleged injustice was done to him. Mere pleadings are no substitute for proof. It was obligatory on the part of workman to come forward with the case that the alleged illegality was done to him, ignoring his reply to the charge sheets; but the workman failed to forward any evidence in support of its claim, as it did not turn up for cross-examination.

15. Section 11 A of the Industrial Disputes Act, 1947 reads as under :

“11 A. powers of Labour Courts Tribunal and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen.—Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, be its award, set aside the order of discharge or dismissal and direct re-instatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require :

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.”

A bare reading of the section makes it clear that Section 11A of the Industrial Disputes Act has been enacted to empower the Labour Court to interfere with that management's decision to dismiss, discharge or terminate the services of a workman in such cases. In respect of other punishments, it has been observed and consistently held by the Courts that the tribunal does not have power to substitute its own judgement for that of the management. Hon'ble Apex Court in South Indian Cashew Factories Workers' Union vs. Kerala State Cashew Development Corp. Ltd. (2006) 5 SCC 201 made the following observations :

“Section 11-A of the Act gives ample power to the Labour Court to re-appraise the evidence adduced in the enquiry and also sit in appeal over the decision of the employer in imposing punishment. Section 11-A of the Industrial Disputes Act is only applicable in the case of dismissal or discharge of a workman as clearly mentioned in the section itself.”

16. Whether similar power can be exercised by the Labour Court where the punishment award is neither dismissal, punishment or retrenchment? This issue has been considered by Hon'ble Allahabad High Court in Allahabad Bank vs. Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court, Kanpur & others 2012 (133) FLR 1098; where it has observed that :

"Section 11-A empowers the Labour Court to re-appreciate the evidence and correct the judgment, in case of discharge, dismissal and termination, while in case of other punishments, no such power is vested with the Labour Court".

17. There is no reliable material for recording findings that the alleged illegality was committed to the workman or the action of the management of railway in imposing minor penalty upon the workman, vide order dated 15-10-1999 and 15-7-2000 were illegal.

18. Accordingly, in view of the above decision of Hon'ble Supreme Court, I am of opinion that the punishment orders 15-10-99 and 15-7-2000 are need not to be interfered by this Tribunal. Hence, the reference is adjudicated against the workman; and as such, I come to the conclusion that the workman, Ram Sewak is not entitled to any of the relief(s) claimed by him.

19. Award as above.

Lucknow,

18-07-2012.

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 27 जुलाई, 2012

का.आ. 2710.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार अधिकारी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 225/89) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-7-2012 को प्राप्त हुआ था।

[सं. एल-41011/26/88-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 27th July, 2012.

S. O. 2710.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. 225/89) of the Cent. Govt. Indust. Tribunal-Cum- Labour Court, Jabalpur as shown in the Annexure in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 26-07-2012.

[No. L-41011/26/88-JR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/225/99

Presiding Officer : SHRI MOHD SHAKIR HASAN,

Shri Imam Ali,

S/o Meera Bux, R/q Jawra Road,

Chawal of Bore,

Darbar Tea House,

Ratlam (MP)

... Workman

Versus

Dy. Chief Engineer-I,

Western Railway,

Ratlam (MP)

... Management

AWARD

Passed on this 3rd day of July, 2012

1. The Government of India, Ministry of Labour vide its Notification No.L-41011/26/88/D-2(B) dated 24-10-1989 has referred the following dispute for adjudication by this tribunal:-

"Whether the action of PWI, Western Railway, Ratlam in terminating the services of Shri Omprakash Sharma and 9 other Gangman is legal and justified? If not, what relief the concerned workmen are entitled to?"

2. The case of the workmen in short is that the workmen namely Omprakash, Ramesh, Imam Ali, Keeka and Jeevan Singh were appointed as Gangman by the management under the control of his subordinate authority at Bamaniya Rail Path. They were continuously working there. Thereafter they had been transferred to Oohail (Ujjain Rail Path) and worked till December 1986. They were required to go to Jaipur and Dindikar for medical examination. It is stated that they had not worked at Jaipur and therefore it was not possible for them to bring service cards whereas these workmen were working at Bamhani and thereafter at Oohail Rail Path. It is stated that the working cards of these places were to be prepared by the management but instead of preparing the cards of these places, the clerk Vinod Kumar Srivastava prepared the service cards falsely of Jaipur and handed over to them with a direction to bring counter signature of the concerned authority from Jaipur. It is stated that thereafter the workmen were stopped to allow them to work and marked them absent. It is stated that juniors were allowed to work in violation of the principle of "First come last go". On these ground, it is submitted that the workmen be reinstated with full back wages.

3. The management appeared and filed Written Statement to contest the case. The case of the management, interalia, is that at the time of appointment of these workmen, there was striction in appointment of fresh persons. The workmen who had already worked earlier with the management were engaged on production of

certificate of some Railway authority. The workmen submitted their certificates of their earlier work done with the management and thereafter they were engaged as casual gangman by PWI(C), Ratlam. The Service Cards or Certificates were to be verified and countersigned by the competent authority. As such the cards or certificates were returned back to the workmen to bring them after counter signature from the respective authorities. Thereafter they did not return back on duty with the said service cards or certificates after due counter signatures and raised dispute before the learned Asstt. Labour Commissioner, Bhopal. It is stated that these workmen submitted before the learned Asstt. Labour Commissioner that the certificates or cards are false. As such it was declared as false and fabricated by the Learned Asstt. Labour Commissioner, Bhopal. Under the circumstances, they were not entitled to be engaged as casual labour. It is submitted that the workmen are not entitled to any relief.

4. On the basis of the pleadings of the parties, the following issues are framed for adjudication—

I. Whether the action of the management, in terminating the services of the workmen is justified?

II. To what relief the workmen are entitled ?

3. Issue No. I

According to the workmen, they had been given false certificates or service cards of Jaipur of their work by one clerk Vinod Kumar Srivastava and were directed to bring them after counter signature. It is also stated that they had been deliberately stopped by the management in December, 1986 from work. The pleading clearly shows that there is no case of the workmen that they had earlier worked with the Railway and on the basis they had been re-employed by the Railway management at Ratlam. On the other hand, there is specific case of the management that the fresh appointment was barred and only those who had earlier worked with the Railway Management were employed on production of certificates or service cards of some Railway authority. These workmen had submitted certificates to the effect that they had earlier worked in the Railway and therefore they were engaged as casual Gangman by PWI (C), Ratlam. They had been asked to verify the certificates or cards from the competent authority under whom they had worked but they did not return back with cards and raised dispute. This shows that admittedly the certificates of casual labour cards were false and fake. It is also clear in absence of pleading of the workmen that they had not previously worked with the Railway Management which was the pre-requisite criteria for engagement of casual labour at the time of their engagement.

6. The workmen are examined in the case. The workman Imam Ali has stated in his evidence that he was appointed as a Gangman and worked in Bamaniya Rail Path and thereafter on transfer at Oohail, Ujjain Road, path for 13 months till December 1986. There is no evidence as to whether he had earlier worked with Railway

management. He has also admitted that he had been given false card for identification which was prepared by the clerk Vinod Kumar Srivastava. This also shows that he had no certificate or casual service card at the time of engagement of his 13 months back. He has admitted at para 10 that he had not worked with the Railway before November 1985. He has further stated that he had no knowledge that the casual labour were engaged who had worked prior to 1985. His engagement was admittedly illegal ab-initio.

7. Another workman Shri Ramesh has also stated the same facts in his examination-in-chief. He has also not stated that as to when he was earlier employed with the management which was the pre-requisite criteria for engagement of casual labour in 1985-86. Simply he has stated at para-11 that he had worked one month at ~~in~~ before 1986. There is no such pleading that any of the workman had earlier worked anywhere before engagement at this place, rather the case is that false service card was given by the clerk. His evidence is not reliable and he is not trustworthy.

8. Another workman Shri Keeka is also examined in the case. In examination-in-chief, he has not stated that he had earlier worked. In cross-examination, he has stated a new case that earlier he had worked at Mhow. There is no such pleading. There is no chit of paper to show that he had earlier worked with the management. This fact is after thought. His evidence is not reliable and he is not trustworthy. There is no documentary evidence adduced by the workmen. Thus the evidence of the workmen does not prove that they were legally engaged rather admittedly as in the pleading they had filed false certificates or cards the management. Moreover there was no pleading that they had previously worked with the management and they gave service cards or certificates at the time of re-engagement.

9. On the other hand, the management has examined two witnesses. The management witness Shri Rajesh Dixit is Senior Section Engineer (construction), Ratlam. He has supported the case of the management. He has stated that the workman Iman Ali has not stated anything about his previous employment. It is also clear from the pleading of the workmen that there is no pleading about the earlier engagement of the workmen. It is a settled law that the party cannot go beyond his pleading. He has been cross-examined point of service card. Admittedly the certificates or service cards filed by the workmen were false as the workmen pleaded in their statement of claim that these cards were-falsely created by the clerk of Jaipur and were handed over to them. Thus the question to test the genuineness of the certificates or cards does not arise. There is no pleading that these workmen had previously worked with the Railway management anywhere and they had submitted those certificates or cards for obtaining the engagement of appointment in the year 1985-86. The management has also examined Shri Binod Kumar Srivastava who was working as Senior clerk in the year

1985-86 in Rail Path, Ratlam. He has supported the case of the management that new appointment was totally stopped. The casual worker who had, earlier worked with the Rail management, was again engaged in the employment. He has denied in his evidence that he had not prepared any false card of the workman. The cards produced by them at the time of securing appointment were returned to them for counter signature from the respective places. There is nothing in his evidence to disbelieve this witness. He is the most competent witness to deny that he had not prepared any certificates or card of any of the workmen. Considering the entire evidence and admitted pleadings, it is clear that the workmen were not entitled to employment ab-initio. This issue is decided against the workmen and in favour of the management.

10. Issue No. II

On the basis of the discussion made above, I find that the workmen are not entitled to any relief. The reference is accordingly answered.

11. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 27 जुलाई, 2012

कर.अ. 2711.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जलरल मैनेजर, कम्यूनिकेशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर/53/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था।

[सं. एल-40012/150/1996-आई आर (डी यू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 27th July, 2012

S. O. 2711.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/53/98) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the General Manager, Telecommunication and their workman, which was received by the Central Government on 27-7-2012.

[No. L-40012/150/1996-IR (DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/53/98

PRESIDING OFFICER : SHRI MOHD. SHAKIR HASAN

Shri Rakesh Kumar Mathur,
S/o Shri Om Prakash Mathur,
Co/ Shri Banshilal Mathur, Sanjay Colony,
Talen Distt., Rajgarh (Beora) ... Workman

Versus

District Engineer,
Telecommunication,
Distt. Guna (MP)

General Manager,
Telecommunication,
Jabalpur (MP)

... Management

AWARD

(Passed on this 21st day of June, 2012)

1. The Government of India, Ministry of Labour vide its Notification No.L-40012/150/IR(DU) dated 10-3-98 has referred the following dispute for adjudication by this tribunal :-

“Whether the action of the management of Telecommunication represented by the District Engineer, Telecommunication, Distt. Guna in terminating the services of Shri Rakesh Kumar Mathur S/o Shri Om Prakash Mathur is legal and justified? If not, to what relief the workman is entitled?”

2. The case of the workman, in short, is that the workman Shri Rakesh Kumar Mathur was appointed by the District Engineer, Telecommunication, Guna (MP) on the post of peon in the year 1986 and worked there continuously till 30-11-1987. Thereafter he was again appointed as a peon on 1-12-1987 on daily wages in the office of Sub-divisional Office, Telegraph, Guna and worked till 20-7-89. Subsequently in the same office in another wing he worked till 30-11-95 when he was terminated on 1-12-95 without any notice and without payment of any retrenchment compensation amount. He had completed more than 240 days of service in one year and worked more than 10 years with the management. It is submitted that the workman be reinstated with back wages and consequential benefits.

3. The management appeared and filed Written Statement. The case of the management, interalia, is that the workman was engaged on daily wages for specific targeted work. He was never appointed against any sanctioned post. He was never engaged for more than 240 days in any calendar year rather he worked for the maximum period of 214 days in a year. As such the provision of Section 25 F of the Industrial Dispute Act 1947 (in short the Act, 1947) is not attracted. He was engaged for a short period for specific targeted work. The case is covered under the provision of Section 2(oo)(bb) of the Act, 1947. He was paid wages at the rate of fixed by the Collector on

ACG Form 17. It is submitted that under the circumstances he is not entitled to any relief.

4. On the basis of the pleadings of the parties, the following issues are framed for adjudication—

I. Whether the action of the management in terminating the services of the workman is legal and justified?

II. To what relief the workman is entitled?

5. Issue No. I

The workman has adduced oral and documentary evidence in the case. The workman Shri Rakesh Kumar Mathur has initially supported his case that he was appointed as a peon on daily wages. He has stated that he worked from 1986 to 1995 after transfer on different places under the management and was terminated without notice and without payment of retrenchment compensation. But his documentary evidence gives different picture. The workman has filed paper No. 15/3 (W-2) which is signed by the Telecom District Engineer, Guna. This paper shows the statement of work done by the workman from 1989 to July 1995. This shows that in the year 1989 the workman had worked only 489 days, in the year 1990- 214 days, in the year 1991-51 days, in the year 1992- 52 days, in the year 1994-75 days and in the year 1995-18 days only. This statement which is filed by the workman himself shows that he had not worked 240 days for a period of one year during a period of twelve calendar months preceding the date with reference i.e. with the month of July 1995 of the termination! This clearly shows that his service is not termed as a continuous service for a period of one year in view of Section 25(B)(2) of the Act, 1947. Thus it is clear that Section 25 F of the Act, 1947 is not attracted in the case. The workman has filed a certificate of Muster roll charge which discloses that he worked from 1988 to 1995 which is Paper No. 15/2 (W/1). This is clear that he worked from 1985 to 1995 but the days he had worked in those period is indicated in Paper No. 15/3 (W/2) which shows that worked intermittently during those period but the total period of service preceding the date with reference did not attract the provision of Section 25 F of the Act, 1947. This shows that the management is justified in terminating his service.

6. On the other hand, the management has examined his witness namely Shri V.P. Dubey. He is working as Sub Divisional Engineer (Addl.) Guna. He has supported the case of the management. He has stated that the workman was engaged on daily wages intermittently. He has further stated that the maximum service rendered by the workman in a year is 214 days. This fact is corroborated from the evidence of the workman which is Paper No. 15/3(W/2). He has further stated that the workman was engaged for a short period only for specific targeted work. The management has not supported with any documentary evidence that the workman was engaged for any specific targeted work rather it shows that he was daily rated worker and his services were utilized wherever there was

requirement of work. However his evidence also shows that he had not worked 240 days in any calendar year. The learned counsel for the workman argued that this witness has stated that he had seen ACG-17 relating to this workman. This witness has further stated that form ACG-17 shows the name of the worker, the days of work done and the payment made to the worker. It is urged that the said paper is not filed in Court and therefore adverse inference is to be drawn. His cross-examination was deferred for production of the said document. He was subsequently cross-examined. He has further stated in cross-examination that he searched the said ACG-17 but it was not available. However this document is not very vital because the workman has himself filed the statement (Paper No. 15/3) which itself shows that he had not worked the required period attract the provision of Section 25-F of the Act, 1947. This issue is, accordingly, decided against the workman and in favour of the management.

7. Issue No. II

On the basis of the discussion made above, I find that the action of the management is legal and justified and the workman is not entitled to any relief. Accordingly the reference is answered.

8. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN: Presiding Officer

नई दिल्ली, 27 जुलाई, 2012

का.आ. 2712.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ इंजीनियर, सी.पी.डब्ल्यू.डी., भोपाल के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./103/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था।

[सं. एल-42011/93/2010-आई.आर. (डी.यू.)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

—New Delhi, the 27th July, 2012

S. O. 2712.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/103/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the industrial dispute between the Chief Engineer, CPWD, Bhopal and their workmen, which was received by the Central Government on 27-07-2012.

[No. L-42011/93/2010-IR (DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/103/2011

Presiding Officer: SHRI MOHD. SHAKIR HASAN

The General Secretary,

All India CPWD Employees Union,
Shastri Nagar,

A.G Colony, Morar,

Gwalior

... Workman

Versus

The Chief Engineer (Central Zone),
Central Public Works Department,
52-A, Nirman Sadan,
CGO Complex, Arera Hills,
Bhopal (MP) ... Management

AWARD

(Passed on this 12th day of June 2012)

1. The Government of India, Ministry of Labour vide its Notification No. L-42011/93/2010-IR (DU) dated 3-10-2011 has referred the following dispute for adjudication by this tribunal:—

“Whether Smt. Savitri Devi is entitled for regularization in the grade of Head Receipt work under the management of CPWD, Bhopal? What benefit the workman is entitled to?”

2. The worker Smt. Savitri Devi filed an application alongwith office order that the management has regularized her in the service and has directed to join the duty. It is requested to close the case. The office order dated 31-10-2011 passed by the Executive Engineer, Gwalior, Central Division, CPWD shows that in pursuance to the letter No. 19/21/2011-EC-X dated 13-9-2011 read with letter No. 19/176/2004-EC-X dated 11-3-2011 of DGW CPWD New Delhi and letter No. 10(5)/11/ICC/2051-H dated 17-10-2011 the worker Smt. Savitri Devi is regularized in Group D as Belder w.e.f. 11-12-2006. It also appears that she had given the undertaking to the effect that she is satisfied with the regularization in view of DGW OM No. 19/176/2004-EC-X dated 11-3-2011 and will not process it for any further litigation in any Court of law. Thus it is clear that the claim of entitlement of regularization in the reference has been settled and given to the worker Smt. Savitri Devi w.e.f. 11-12-2006. Now there is no dispute in view of the office order dated 31-10-2011.

3. On the basis of the discussion made above, it is clear that the dispute has been settled between the parties outside the court and in the result the office order dated 31-10-2011 is passed. This is evident that now there is no dispute. Accordingly the reference is answered.

4. In the result, no dispute award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 30 जुलाई, 2012

का.आ. 2713.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ इन्जीनियर, एम.ई.एस., चंडीगढ़ के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 37/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 30-7-2012 को प्राप्त हुआ था।

[सं. एल-13012/07/1999-आई. आर. (डी.यू.)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 30th July, 2012

S. O. 2713.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the industrial dispute between the Chief Engineer, M.E.S. Chandigarh and their workman, which was received by the Central Government on 30-07-2012.

[No. L-13012/07/1999-IR (DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, KARKARDOOMA COURTS COMPLEX,
DELHI**

I.D. No. 37/2011

Smt. Shanti Devi,
W/o Late Sh. R. P. Verma,
R/o C-120, Raghbir Nagar,
New Delhi-110001. ... Workman

Versus

The Chief Engineer,
M.E.S., Western Command,
Chandimandir,
Chandigarh-134107. ... Management

AWARD

Shri R. P. Verma, an employee serving Garrison Engineer, Military Engineering Services (West), Delhi Cantt, Delhi, died in harness. His widow, namely,

Smt. Shanti Devi was given compassionate appointment on 1-6-1983 as Mazdoor. At that time she was sent for medical examination (ossification test) for ascertaining her age. The Radiologist assessed her age as 40 years. However, she furnished an affidavit giving her date of birth as 1-1-1938. She filled in that date as her date of birth in bio data and also furnished a certificate to the effect that her date of birth as 1-1-1938 is correct. Besides that particulars of family members were given by her and in that proforma too she gave her date of birth as 1-1-1938. Subsequent to that she raised an issue on 26-12-1984, claiming that her date of birth was 1-1-1944. She supported her claim with an affidavit sworn by her to that effect before Executive Magistrate, Tis Hazari, Delhi. Her date of birth was not corrected by her employer. On 11-8-1997 she raised a demand for correction of her date of birth, which request was not conceded to. She superannuated on 31-12-1997 and thereafter raised a dispute before the Conciliation Officer for correction of her date of birth. On receipt of a failure report, appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-13012/7/99/IR (DU) New Delhi, dated 13-9-1999, with following terms.

"Is the act of the management of M.E.S. in turning down the request of Smt. Shanti Devi, Mazdoor, for correction of date of birth in view of medical certificate issued by Doctor of Basic Hospital, Delhi Cantt. at the time of joining service is correct and justified? If not, to what relief she is entitled?"

Smt. Shanti Devi filed a claim statement pleading therein that she was appointed by the office of Military Engineering Service (in short the management) on compassionate ground as Mazdoor, vide order dated 15-4-1983. She is an illiterate and cannot read and write. She was examined by Dr. P. Sharma of Basic Hospital, Delhi Cantt., Delhi, who assessed her age as about 40 years. Certificate dated 31-5-1983 was issued to that effect. At the time of recording her date of birth in service record, age assessed by the Medical Officer was not recorded. She was asked to submit an affidavit. Accordingly, she submitted an affidavit wherein due to typographical mistake her date of birth was recorded as 1-1-1938 instead of 1-1-1944. When she noticed this mistake she immediately submitted a representation supported by a fresh affidavit dated 26-12-1984. Her case was recommended for onward consideration but no action for correction of her date of birth was taken. On 25-4-1997 she was informed that she would superannuate on 31-12-1997. She sent a demand notice on 11-8-1997 for correction of her date of birth. Her date of birth was not corrected and she was illegally and arbitrarily superannuated on 31-12-1997. She has been wrongly thrown out of employment six years prior to her age of superannuation. According to her, action of the management is violative of Article 21 of the Constitution. She cannot be made to suffer on account of lapses on the part of the management. She claimed that action of arbitrarily superannuating her on 31-12-1997 may be

declared illegal and she may be ordered deenred to be in service of the management till the date of her actual superannuation.

3. The management does not dispute that Smt. Shanti Devi was appointed as Mazdoor on compassionate grounds. It is also not disputed that she was sent to Base Hospital for medical examination (ossification test). It is also not disputed that the Radiologist assessed her bone age as 40 years, vide certificate dated 31-5-1983. However the management presents that as proof of her age, the claimant submitted an affidavit wherein she mentioned her date of birth as 1-1-1938. She also furnished a certificate signed by her wherein aforesaid date of birth was mentioned. Claim of Smt. Shanti Devi that on 26-12-1984 she submitted an affidavit for change of her date of birth is not correct. She applied for change of her date of birth on 20-3-1997 at the verge of her retirement. Her request for change of date of birth was not entertained. An employee can make a request for change of his date of birth within 5 years of his entry into service on a genuine/bonafide ground for such change. At a belated stage request for change of date of birth cannot be entertained. The claimant was rightly retired, on reaching the age of superannuation. Her claim is liable to be dismissed.

4. The claimant examined herself in support of her claim. Major Naveen Ahlawat entered the witness box on behalf of the management. No other witness was examined by either of the parties.

5. Vide order No. Z-22019/6/2007-IR(C-II) dated 11-02-2008, the case was transferred to the Central Govt. Industrial Tribunal No. 2, New Delhi, for adjudication. It was re-transferred to this Tribunal, vide order No. Z-22019/6/2007-IR (C-II) New Delhi, dated 30-03-2011, for disposal.

6. Smt. Shanti Devi filed her written submission in the case. Shri A. S. Singh, authorized representative, also furnished written arguments on behalf of the management. Parties opted not raise oral submissions. I have given my careful considerations to the facts brought over the record. My findings on issues involved in the controversy are as follows:—

7. Smt. Shanti Devi swears in her affidavit Ex. WW1/A that her age, assessed by the medical officers as 40 years, was not considered by the management at the time of her appointment. She was asked to submit an affidavit in support of her age. Accordingly she submitted an affidavit in which her date of birth was typed as 1-1-1938 in place of 1-1-1944. She is an illiterate and does not understand English. When she came to know that wrong date of birth was furnished in her affidavit, she submitted another affidavit on 26-12-1984, wherein she mentioned her date of birth correctly as 1-1-1944. She made a representation for correction of her date of birth. Her case for correction of date of birth was duly recommended and transmitted onward, but no action was taken. When asked,

again she submitted an affidavit on 21-12-1995 projecting her correct date of birth. She was due for retirement on 31-12-1997. The management did not consider her case and proceeded to reject her request for correction of date of birth, vide order dated 25-6-1997. She projects that she is un-employed since the date of her retirement.

8. Tone and tenor of testimony of Smt. Shanti Devi is that on 31-12-1997 she was superannuated in arbitrary manner. According to her, her date of birth ought to have been corrected and she would not have been superannuated on 31-12-1997. Therefore, as per facts projected by Smt. Shanti Devi, it is not a case of discharge, dismissal, retrenchment or termination of her service, in which case an individual dispute would partake character of an industrial dispute by way of legal fiction created by section 2 A of the Industrial Disputes Act, 1947 (in short the Act). Hence it becomes expedient to know as to what these words imply. Word "discharge" connotes termination of contract of employment by notice or on payment of wages in lieu of notice. Under industrial law, the term discharge is used in contra-distinction to a punitive discharge or discharge by way of punishment. Contract of industrial employment can also be ordinarily terminated, in accordance with the terms of the contract of service. One of the meaning of the word would include in it discharge on retirement in accordance with standing orders applicable to a workman. The word "dismissal" according to its dictionary meaning is "to send away, to discard, to remove from service or employment". The word "dismissal" has to be understood in the context in which it occurs and that it denotes termination of employment as penalty is a matter of recent development. However, termination of service cannot amount to dismissal or removal. A termination of service brought about by exercise of contractual right is not by itself dismissal or removal. Compulsory retirement in terms of specific rule regulating conditions of service does not tantamount to infliction of a punishment and would not attract provisions of Article 311(2) of the Constitution. Reference can be made to Sham Lal [(1955 (1) SCR-26)]. There is vital difference between dismissal and discharge. Discharge is the termination of contract by notice or on payment of wages in lieu of notice, whereas dismissal implies not merely of termination without notice or payment, but essentially indicates measure of punishment. Dismissal from services disqualifies a civil servant from future employment, whereas removal from service ordinarily does not. Reference can be made to Khem Chand (AIR 1958 S.C. 300). When an employer terminates services of a workman for reason that he was temporary employee and his services were no longer required, it is a case of discharge simpliciter. Termination of service of a workman is distinct from retirement on the age of superannuation. Word "retrenchment" used in section 2(oo) of the Act can be given a very wide meaning and includes within its sweep such actions as are taken by the employer for termination of services by way of surplusage of staff.

9. Generally, the age of retirement is fixed, either in the standing orders applicable to the establishment or service rules of the employer. It is not open to a workman to continue to serve the employer at his sweet will, till whatever age he likes. Hence age of retirement can be fixed by an employer, adopting a fair and reasonable standards for the same. As on date, there is tendency to fix the age of superannuation generally at 60 years, unless it is found that the work of the operatives is primarily arduous or hazardous, where they may loose efficiency earlier. The character of the climate where the employees work was held to be one of the factor in fixing the age of superannuation, by the Apex Court in Guestkeen, Williams Pvt. Ltd. [1959 (2) L.L.J. 405]. Age of superannuation may be uniformly in force throughout the region-cum-industry. Once age of superannuation is fixed it is not open to an employee to continue in employment, after reaching that age. Reference can be made to Hindustan Antibiotics Ltd. [1967 (1) LLJ 114].

10. It is not the case of the parties that there was no age of superannuation. Tone and tenor of the case of the claimant is that at 60 years of age, she was to superannuate. According to her, she had not reached that age. Thus admittedly 60 years of age has been uniformly fixed throughout India for superannuation of a Government employee, which was so fixed by the management also. When claimant superannuated at the age of 60 years, can it be said to be a case of retrenchment, to bring her case within the ambit section 2A of the Act? The term retrenchment has been defined by the legislature in clause (oo) of section 2 of the Act, which definition is extracted thus :

- (oo) "retrenchment" means the termination by the employer of the services of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—
 - (a) voluntary retirement of the workman; or
 - (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
 - (bb) termination of the services of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
 - (c) termination of the services of a workman on the ground of continued ill-health".

11. Definition of retrenchment is very wide and in two parts. The first part is exhaustive, which lays down that retrenchment means the termination of the service of a workman by the employer "for any reason whatsoever" otherwise then as a punishment inflicted by way of

disciplinary action. Thus main part of the definition itself excludes the termination of service, as a measure of punishment inflicted by way of disciplinary action from the ambit of retrenchment. The second part further excludes (i) voluntary retirement of the workman, or (ii) retirement of workman on reaching the age of superannuation, or (iii) termination of the service of a workman as a result of non-renewal of contract of employment, or (iv) termination of contract of employment in terms of a stipulation contained in the contract of employment in that behalf, or (v) termination of service on the ground of continued ill health of the workman. Reference can be made to the precedents in Avon Services (Production Agencies) (Pvt.) Ltd. [1979 (I) LLJ 1] and Mahabir [1979 (II) LLJ 363].

12. As per the case of the parties, claimant raises a question that action of non-correction of her age is wrong. Her retirement on reaching the age of superannuation is not in dispute. What is in dispute that relates to non-correction of her date of birth. As projected above, it is a dispute between the claimant and the management, since the latter refused to correct her date of birth at a belated stage. Question for consideration comes whether above dispute is an industrial dispute? For an answer, definition of the phrase "industrial dispute" is to be construed. As per definition contained in Section 2(k) of the Act "industrial dispute" means any dispute or difference between employers and employers, or between employer and workmen, or between workmen and workmen, "which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person".

13. The above definition encompasses within its sweep any dispute or difference between the employer and employers, or between employer and workmen or between workmen and workmen, which is connected with the employment or non-employment or terms of employment or with the conditions of labour of any person. According to the definition contained in section 2(k) of the Act, a dispute between an individual employee and his employer cannot be an industrial dispute unless the cause is espoused by the other workmen of the establishment and it becomes a collective dispute.

14. The Apex Court in Bombay Union of Journalist [1961 (II) LLJ 436] has observed that in each case in ascertaining whether an individual dispute has acquired the character of an industrial dispute, the test is whether at the date of reference, the dispute was taken up as submitted by the union of the workmen of the employer against whom the dispute is raised by an individual workman or by an appreciable number of workmen. In order, therefore, to convert an individual dispute into an industrial dispute, it has to be established that it has been taken up by the union of employees of the establishment or by an appreciable number of the employees of the establishment. As far as union of the workmen of establishment itself is concerned, the problem of espousal by them generally presents little difficulty, since such workmen who are members of such unions generally have a continuity of

interest with an individual employee who is one of their fellow workmen. But difficulty arise when the cause of a workman, in a particular establishment is sponsored by a union which is not of the workmen of that establishment but is one of which membership is open to workmen of their establishment as well as in that industry. In such a case a union which has only microscopic number of the workmen as its member, cannot sponsor any dispute arising between the workmen and the management. A representative character of the union has to be gathered from the strength of the actual number of co-workers sponsoring the dispute. The mere fact that a substantial number of workmen of the establishment in which the 'concerned workman was employee were also members of the union would not constitute sponsorship. It must be shown that they were connected together and arrived at an understanding by a resolution or by other means and collectively submitted the dispute.

15. The expression "industrial disputes" has been construed by the Apex Court to include individual disputes, because of the scheme of the Act. In Raghu Nath Gopal Patvardhan [1957 (I) LLJ 27] the Apex Court ruled as to what dispute can be called as an industrial dispute. It was laid thereon that (1) a dispute between the employer and a single workman cannot be an industrial dispute, (2) it can not be per-se be an industrial dispute but may become if it is taken up by a trade union or a number of workmen. In Dharampal Prem Chand [1965 (I) LLJ 668] it was commanded by the Apex Court that a dispute raised by a single workman cannot become an industrial dispute unless it is supported either by his union or in the absence of a union by substantial number of workmen. Same law was laid in the case of Indian Express News Paper (Pvt.) Limited [1970 (I) LLJ 132]. However in Western India Match Company [1970 (II) LLJ 256], the Apex Court referred the precedent in Drona Kuchi Tea Estate's case [1958 (I) LLJ 500] and ruled that a dispute relating to "any person becomes a dispute where the person in respect of whom it is raised is one in whose employment, non-employment, terms of employment or conditions of labour, the parties dispute for a direct or substantial interest".

16. What a substantial or considerable number of workmen would be in a given case, depend on particular facts of the case. The fact that an "industrial dispute", is supported by other workmen will have to be established either in the form of a resolution of the union of which workman may be member or of the workmen themselves who support the dispute or in any other manner. From the mere fact that a general union, at whose instance an "industrial dispute" concerning an individual workman is referred for adjudication, has on its roll a few of the workmen of the establishment as its members, it cannot be inferred that the individual dispute has been converted into an "industrial dispute". The Tribunal has therefore, to consider the question as to how many of the fellow workman actually espoused the cause of the concerned workman by participating in the particular resolution of the Union. In the absence of a such a determination by the

Tribunal, it cannot be said that the individual dispute acquired the character of an industrial dispute and the Tribunal will not acquire jurisdiction to adjudicate upon the dispute. Nevertheless, in order to make a dispute an industrial dispute, it is not necessary that there should always be a resolution of substantial or appreciable number of workmen. What is necessary is that there should be some express or collective will of a substantial or an appreciable member of the workmen treating the cause of the individual workman as their own cause. Law to this effect was laid in P. Somasundrameran [1970 (1) LLJ 558].

17. It is not necessary that the sponsoring union is a registered trade union or a recognized trade union. Once it is shown that a body of substantial number of workmen either acting through a union or otherwise had sponsored the workman's cause, it is sufficient to convert it into an industrial dispute. In Pardeep Lal Works [1970 (1) LLJ 507] complaints relating to dispute of ten workmen were filed before the Conciliation Officer by the individual workmen themselves. But their case was subsequently taken up by a new union formed by a large number of co-workmen, if not a majority of them. Since this union was not registered or recognized, the workmen elected five representatives to prosecute the cases of ten dismissed workmen. Thus cases of the dismissed workmen were espoused by the new union, yet unregistered and unrecognized. The Apex Court held that the fact that these disputes were not taken up by a registered or recognized union does not mean that they were not "industrial dispute".

18. It is not expedient that same union should remain in charge of that dispute till its adjudication. The dispute may be espoused by the workmen of an establishment, through a particular union for making such a dispute an "industrial dispute", while the workman may be represented before the Tribunal for the purpose of section 36 of the Act by a number of executive or office bearer of altogether another union. The crux of the matter is that the dispute should be a dispute between the employer and his workmen. It is not necessary that the dispute must be espoused or conducted only by a registered trade union. Even if a trade union ceases to be registered trade union during continuance of adjudication proceedings that would not affect the maintainability of the order of reference. Law to this effect was laid by the High Court of Orissa in Gammon India Limited [1974 (II) LLJ 34]. For ascertaining as to whether an individual dispute has acquired character of an individual dispute, the test is whether on the date of the reference the dispute was taken up as supported by the union of the workmen of the employer against whom the dispute is raised by the individual workman or by an appreciable number of the workmen. In other words, the validity of the reference of an industrial dispute must be judged on the facts as they stood on the date of the reference and not necessarily on the date when the cause occurs. Reference can be made to a precedent in Western India Match Co. Ltd. [1970 (II) LLJ 256].

19. As pointed above, the claimant does not raise a question that her services were discharged or dismissed

or retrenched or otherwise terminated. Her case does not fall within the ambit of section 2A of the Act. She raises a issue that her application for correction of her date of birth was wrongly rejected and as such she was superannuated six years ago. Therefore it is not a case which falls within the parameters of an individual dispute which is deemed to be an industrial dispute within the meaning of section 2A of the Act. It is an individual dispute which needs espousal by the union or consideration number of the workmen.

20. No evidence worth name was adduced by the claimant that her case was espoused by the majority union of the establishment of the management. In her claim statement, she does not speak of espousal of her case by a union, not to talk of majority union of the establishment of the management. For establishing an espousal of her case, the claimant ought to have proved facts by way of positive evidence. It is not a case which is covered within the ambit of section 2A of the Act. For desideratum of evidence, it is to be concluded that the claimant could not show that her dispute became an industrial dispute, on being espoused by the majority union of the establishment of the management. Dispute referred for adjudication is an individual dispute, for adjudication of which this Tribunal cannot assume jurisdiction. On this count, the matter is to be discarded by this Tribunal, since it is beyond the pale of its jurisdiction.

21. On the other hand, the claimant gave her date of birth as 1-1-38 in affidavit and her bio data. She also gave a certificate to this effect. Her assertion was accepted and her date of birth was recorded as 1-1-38 in service record. Her claim that ossification report showed her age as 40 years at the time of her appointment, cannot be given any weight. It is a matter of common knowledge that bone age determined by ossification test can never be accurate and there is a variation of two years on either side. Claimant wants correction of her date of birth at the fag end of her service. She ought to have raised an issue within five years of her entering the service. Hence her claim is not well founded on that count too. Further more she could not establish that her date of birth is 01-01-1944. No evidence worth name is brought on the record on that aspect too. Therefore it cannot be said that 1-1-44 is her correct date of birth. Hence no case for correction of date of birth is established by her. On these aspects to her case is to be discarded.

22. Above reasons make it clear that an individual dispute was referred for adjudication by the appropriate Government. The appropriate Government was not competent to refer it for adjudication. The Tribunal lacks jurisdiction to entertain the dispute. Claim put forward by the claimant cannot be entertained. Accordingly, her claim is discarded and an award is passed against her and in favour of the management. It be sent to be appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated : 26-04-2012

नई दिल्ली, 30 जुलाई, 2012

का.आ. 2714.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सुपरिनेंट, इंडियन पोस्टल डिपार्टमेन्ट, भीलवारा (राज.) के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 36/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 30-7-2012 को प्राप्त हुआ था।

[स. एल-40012/106/2011-आई आर (डीयू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 30th July, 2012

S. O. 2714.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. Case No.36/2012) of the Central Government Industrial Tribunal-cum-Labour Court Jaipur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of the Superintendent, Indian Postal Department, Bhilwara (Raj) and their workman, which was received by the Central Government on 30-07-2012.

[No. L-40012/106/2011-IR (DU)]

SURENDRA KUMAR, Section Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

सी. जी. आई. टी. प्रकरण सं. 36/2012

श्री एन.के. पुरोहित, पीठासीन अधिकारी

विज्ञप्ति सं. (रेफरेन्स नं.-एल-40012/106/2011-आई आर (डीयू))
दिनांक 8-2-2012

Shri Mohan Lal S/o Shri Babu Lal Mali

R/o Near Police Line

Shiv Nagar

Bhilwara (Rajasthan)

Versus

Superintendent,

Indian Postal Department,

Chief Superintendent Office,

Branch-Bhilwara

Rajasthan

पंचाट

दिनांक : 25/6/2012

केन्द्रीय सरकार के द्वारा उक्त विज्ञप्ति के जरिए निम्न विवाद औद्योगिक विवाद अधिनियम, 1947 की धारा 10 के अन्तर्गत न्याय-निर्णय किए जाने हेतु निर्देश किया।

"Whether the action of the management of Chief Superintendent, Post Office, Bhilwara in terminating the services of Shri Mohan Lal S/o Shri Babu Lal Mali w.e.f. 01/07/2011 is legal and justified? What relief the workman is entitled to?"

रेफरेन्स आदेश प्राप्त होने पर दिनांक 28/03/2012 को दोनों पक्षकारों को दिनांक 20/06/2012 को उपस्थित होने के लिए रजिस्टर्ड नोटिस प्रेषित किए।

अप्रार्थिगण की तरफ से प्रतिनिधि श्री अमित कुमार जैन दिनांक 20/06/2012 को उपस्थित हुए लेकिन उक्त तिथि को ग्रार्थी की तरफ से कोई उपस्थित नहीं हुआ। ग्रार्थी को प्रेषित नोटिस यह पृष्ठाकान कर लौटा दिया गया कि अंकित पता 'अधुरा' है। रेफरेन्स आदेश में जो पता अंकित है उसी पर रजिस्टर्ड नोटिस प्रेषित किए गए थे। अधिलेख पर अन्य पता उपलब्ध नहीं होने के कारण उसी पते पर पुनः रजिस्टर्ड नोटिस प्रेषित किये जाने का कोई प्रोजेक्ट नहीं था।

उक्त परिस्थितियों में क्लेम स्टेटमेन्ट प्रस्तुत नहीं होने के कारण विचाराधीन रेफरेन्स का न्यायनिर्णय गुणावाणु के आधार पर किया जाना सम्भव नहीं है। परिणामस्वरूप 'नो क्लेम' अवार्ड पारित किया जाता है। न्यायनिर्णय के लिए प्रेषित रेफरेन्स का उत्तर तदानुसार दिया जाता है।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम, 1947 की धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जावे।

एन. के. पुरोहित, पीठासीन अधिकारी

नई दिल्ली, 30 जुलाई, 2012

का.आ. 2715.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ मैनेजर, टेलीकाम डिपार्टमेन्ट, सिरोही (राज.) के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 35/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 30-7-2012 को प्राप्त हुआ था।

[स. एल-40012/94/2011-आई आर (डीयू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 30th July, 2012

S. O. 2715.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. Case No.35/2012) of the Central Government Industrial Tribunal-cum-Labour Court Jaipur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of the Chief Manager, Telecom Department, Sirohi (Raj.) and their workman, which was received by the Central Government on 30-07-2012.

[No. L-40012/94/2011-IR (DU)]

SURENDRA KUMAR, Section Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

सी. जी. आई.टी. प्रकरण सं. 35/2012
श्री एन.के. पुरोहित, पीठासीन अधिकारी

विज्ञप्ति सं. [रेफरेन्स नं.-एल-40012/94/2011-आई आर (डीयू)]
दिनांक 7-2-2012

Shri Navratan S/o Shri Keshav Lal Nayak
R/O Hingawaas, PO-Shivpura

Tehsil Sojat, Pali

Versus
Chief Manager,
Telecom Department,
Sirohi (Raj.)
पंचाट

दिनांक : 25-6-2012

केन्द्रीय सरकार के द्वारा उक्त विज्ञप्ति के जरिए निम्न विवाद औद्योगिक विवाद अधिनियम 1947 की धारा 10 के अन्तर्गत न्याय निर्णय किए जाने हेतु निर्देश किया।

“Whether the action of the management of S.D.O.T. Telecom Department, Bharat Sanchar Nigam Limited, Sirohi in terminating the services of Shri Navratan Nayak S/o Shri Keshavlal w.e.f. 31-3-2000 is legal and justified? What relief the workmen is entitled to?”

रेफरेन्स आदेश प्राप्त होने पर दिनांक 27-03-2012 को दोनों पक्षकारों को दिनांक 20-06-2012 को उपस्थित होने के लिए रजिस्टर्ड नोटिस प्रेषित किए।

अप्रार्थी संख्या 2 व 3 की तरफ से प्रतिनिधि श्री मोहन लाल सहायक महाप्रबंधक, प्रशासन दिनांक 20-06-2012 को उपस्थित हुए।

लेकिन प्रार्थी की तरफ से कोई उपस्थित नहीं हुआ, प्रार्थी को प्रेषित रजिस्टर्ड नोटिस एवं प्राप्ति स्वीकृति यह पृष्ठांकन कर लौटा दिए गए कि अकित पते पर कोई नहीं रहता है। उक्त नोटिस रेफरेन्स में अकित पते पर ही प्रेषित किए गए थे। अभिलेख पर अन्य पता उपलब्ध नहीं होने के कारण पुनः नोटिस प्रेषित किए जाने का कोई प्रयोजन नहीं था।

उक्त परिस्थितियों में रेफरेन्स में अकित पते पर नोटिस की तामिल नहीं हो सकी है व यह कोई क्लेम प्रस्तुत नहीं हुआ है। ऐसी स्थिति में न्यायनिर्णयन के लिए प्रेषित रेफरेन्स का निस्तारण गुणावाण के आधार पर किया जाना सम्भव नहीं है। परिणामस्वरूप ‘नो क्लेम’ अवार्ड प्राप्ति किया जाता है। प्रेषित रेफरेन्स का उत्तर तदानुसार दिया जाता है।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम, 1947 की धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जावे।

एन. के. पुरोहित, पीठासीन अधिकारी

नई दिल्ली, 30 जुलाई, 2012

का.आ. 2716.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.ई.सी.एल.के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 82/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 30-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/3/1997-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 30th July, 2012

S. O. 2716.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No.82/98) of the Central Government Industrial Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 30-07-2012.

[No. L-22012/3/1997-IR (C-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/82/98

PRESIDING OFFICER: SHRI MOHD. SHAKIR HASAN

The Secretary,
Chhattisgarh Swatantra Mazdoor Union,
Branch Gevra Project,
Qr. No. MD-395, Dipika Colony,
Post Gevra Project,
Distt. Bilaspur (MP)

—Workman

Versus

Deputy General Manager,
SECL, Gevra Project,
Post Gevra Project,
Distt. Bilaspur (MP)

—Management

AWARD

Passed on this 16th day of July 2012

I. The Government of India, Ministry of Labour vide its Notification No. L-22012/3/97-IR(C-II) dated 24-4-98 has referred the following dispute for adjudication by this, tribunal :—

“Whether the demand of the Chhattisgarh Swatantra Mazdoor Union, Branch Gevra Project for promotion of Shri Panku Ram, as E.P.Fitter Gr.III (Group-D), Grade-II (Group-C) and Grade-I (Group-B) at par with the regularizations/promotion of Shri V. Shivedasan and Kapil

Deo w.e.f. 29-1-91 and 9-12-95 is justified? If so, to what relief the workman is entitled?"

2. The case of the Union/workman in short is that the workman Shri Panku Ram was appointed as Excavation Personnel Greaser/Helper Trainee [in short E.P.GH (T)] in January 1985 under SECL, Gevra Project. It is stated that Shri V.Shivdasan was also appointed on 29-1-85. He was promoted as Fitter Grade III on 29-1-86. Shri Kapildeo was appointed on 30-1-85 and was promoted as Fitter Grade III on 30-1-86 but the workman was not promoted as Fitter Grade III on the said date after completion of one year of Training. It is further stated that Shri Shivdasan and Shri Kapildeo were promoted as Fitter Grade-II on 24-1-91 and thereafter Fitter Grade-I on 9-12-95 whereas the workman was not promoted accordingly. He was promoted as Fitter Grade-III on 23-11-90. It is submitted that there is discrimination with the workman causing monetary loss and injustice. It is submitted that the management be directed to promote the workman accordingly with all monetary benefits as the above two employees were promoted.

3. The management appeared and filed Written Statement in the case. The case of the management, inter alia, is that the workman Shri Panku Ram was admittedly appointed as EPGH(T) on 29-1-1985 for a period of one year. After completion of training period, he was regularized as EPGH in excavation Group "E" w.e.f. 29-1-1986 and subsequently, promoted to the post of EP Fitter III (Gr.D) w.e.f. 23-11-1990 whereas Shri V.Shivdasan and Kapildeo Singh were appointed as Fitter Helper (T) w.e.f. 29-1-85 and 30-1-85 respectively. After completion of one year successful training they were regularized as Fitter Gr.III (Group D) w.e.f. 29-1-86 and 30-1-86 respectively. Therefore the workman cannot compare his case with the case of Shri Shivdasan and Shri Kapildeo Singh who were initially appointed as Fitter Helper (T) and the workman was appointed as EPGH(T). It is submitted that there is no merit in the case of the workman and the award be answered in favour of the management.

4. On the basis of the pleadings of the parties, the following issues are for adjudication—

I. Whether the demand of the union for promotion of Shri Panku Ram as E.P.Fitter Gr III, Gr. II and Gr. I as per regularization/promotion of S/Shri V.Shivdasan and Kapildeo w.e.f. 29-1-91 and 9-12-95 is justified?

II. To what relief workman is entitled?"

5. Issue No. I

Before discussing the evidence, it is pertinent to mention that the Union/workman appeared in the case and filed Statement of claim, rejoinder and affidavit by way of evidence on 7-8-97 but the workman did not appear till 1-4-2010 for cross-examination. As such his evidence was closed. The said evidence by way of affidavit is of no use to the workman/Union.

6. On the basis of the pleadings, the following facts are admitted by the parties—

1. The workman Shri Panku Ram was appointed as EPGH(T) on 29-1-85 whereas Shri V. Shivadasan and Shri Kapil Dev were appointed as Fitter Helper (T) on 29-1-1985 and 30-1-1985 respectively.

2. After completion of one year training the workman Shri Pankuram was regularized as EPGH Grade "E" but Shri V. Shivadasan and Shri Kapil Dev were regularized as EP Fitter Grade III on 29-1-86 and 30-1-86 respectively.

3. Shri V. Shivadasan and Shri Kapil Dev were promoted as EP Fitter Grade-II on 24-1-1991. Thereafter they were promoted as EP Fitter Grade I on 9-12-1995 whereas the workman Shri Panku Ram was promoted as EP Fitter Grade-III on 23-11-1990.

7. Now the important question is as to whether there is any discrimination in promoting the workman from the other two employees or not as cited in the pleadings. The management has adduced one witness. Shri K.A. Sunder is, working as Sr.Manager (Personnel) at SECL, Gevra Project. He has supported the case of the management. He has stated that the workman Shri Pankuram was appointed as EPGH(T) vide order dated 29-1-85 and on completion of one year training, he was regularized as EPGH in Excavation Group E w.e.f. 29-1-1986. Subsequently he was promoted to the post of EP Fitter-III (Group-D) w.e.f. 23-11-1990 whereas Shri Shivdasan and Shri Kapildev were appointed as Fitter Helper (T) w.e.f. 29-1-1985 and 30-1-1985 respectively. Accordingly after completion, they were regularized as EP Fitter Grade (III) Group-D w.e.f. 29-1-1986 and 30-1-1986 respectively. He has further stated that on recommendation of Departmental Promotion Committee (in short DPC) they were promoted on the said post of EP Fitter Grade-III w.e.f. 29-1-1986 and 30-1-1986 respectively whereas the workman Shri Pankuram was promoted to the post of EPGH Grade-III w.e.f. 29-1-1986. This itself shows that they were initially appointed on different posts and accordingly they were recognised on their post of appointment. It appears that there, is no justification to claim to different posts in which the workman was not initially appointed and he had accepted the offer of appointment at the initial time.

8. The management and Union have filed documents. It is clear and surprising that the same appointment letters of Shri Pankuram and Kapildev are filed by both the parties but either of the parties denied the documents of other. This shows that the parties had mechanically denied the documents when both of them filed the same documents. It is surprising that the management, who is a government institution, had also behaved like a veteran litigant.

9. Now let us examine the documents which were filed by both the parties alike. Paper No. 14/7 is the appointment letter dated 1-1-1985 of the workman Shri Panku Ram. This appointment letter shows that the workman was appointed subject to medical fitness as EPGH(T) in the initial pay of Rs. 21.16-0 43-27.18 per day as Cat-I in the National Coal Wage Agreement-III pay scale of Rs. 1.16-0.43-27.18 plus usual allowance as

admissible. This clearly shows that the workman was appointed on the post of EPGH(T) and after completion of one year training period as stated in the appointment letter regularized in the said Excavation Cadre. The copy of appointment letter of Shri kapil Dev is also filed by both the parties which is paper No. 14/13. The said appointment letter shows that Shri Kapil Dev Singh was initially appointed as Fitter Helper (T) in the same initial pay and allowance as per NCWA-III. This clearly shows that Shri Kapildev was initially appointed in Fitter cadre and he was accordingly regularized and promoted on recommendation of DPC. The management has also filed the appointment letter of Shri V.Shivdasan which is Paper No. 14/10. This appointment letter also shows that he was appointed as Fitter Helper (T). The management has also filed the office order, dated 25-11-86 which is Paper No. 14/14. This is filed to show that on the recommendation of DPC, the workman was promoted in EPGH (Grade E) in pay scale of Rs. 23.55-0.72-33.63 of NCW A-III w.e.f. 29-1-86 whereas the other above named two employees were promoted as Fitter Helper Gr-III in the pay scale of Rs. 27.44-1.15-43.54 of NCWA-III w.e.f. 29-1-86 and 30-1-86 respectively. Thus it is clear that in terms of appointment, they were regularized on the post and subsequently promoted. I find that there is no illegality in the action of the management. This issue is decided against the Union/workman and in favour of the management.

10. Issue No. II

On the basis of the discussion made above, it is clear that the action of the management is legal and justified and it has not violated the principle of natural justice and there was no discrimination among the employees. I find that the workman is not entitled to any relief. Accordingly the reference is answered.

11. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 30 जुलाई, 2012

का.आ. 2717.—औद्योगिक विभाग अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.ई.सी.एल.के प्रबंधित्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विभाग में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 71/05) को प्रकल्पित करती है जो केन्द्रीय सरकार को 30-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/285/2004-आई आर (सीएम-II)]

बी.एम. पटनायक, अनुसारण अधिकारी

New Delhi, the 30th July, 2012

S. O. 2717.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 71/05) of the Central Government Industrial Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to management

of SECL and their workman, received by the Central Government on 30-07-2012.

[No. L-22012/285/2004-IR (CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/71/05.

PRESIDING OFFICER: SHRI MOHD.SHAKIR HASAN

Shri Ghansai, S/o Shri Jagat Ram,
Pump Khalasi,
Kapoorsingh Dafai,
PO Chirimiri, Distt. Koregaon
Koregaon (Chhattisgarh)

—Workman

Versus

The Chief General Manager,
Chirimiri Area,
South Eastern Coalfield Limited,
PO Chirimiri, Distt. Koregaon
Koregaon (Chhattisgarh)

—Management

AWARD

Passed on this 13th day of July 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/285/2004-IR (CM-II) dated 8-7-2005 has referred the following dispute for adjudication by this, tribunal :—

“श्री धनसाय पिता श्री जगतराम, पंप खलासी को दि. 05 सितम्बर 2003 से 29 अगस्त 2004 तक बिना किसी जांच पड़लाल एवं कर्मकार के दोष सिद्ध किए बिना अनुपस्थित मानते हुए बेतन आदि पैसे का भुगतान “No Work No Pay” के सिद्धांत के आधार पर न करके क्या मुख्या महाप्रबंधक, चिरिमिरी क्षेत्र एस.ई.सी.एल. ने न्यायोचित, व्यवहार एवं विधिक कार्यवाही की है? यदि नहीं तो कर्मकार को क्या अनुतोष/राहत मिलनी चाहिए ?

2. The workman Shri Ghansai did not appear inspite of notice. As such the then Tribunal proceeded the reference proceeding ex parte against the workman on 3-6-2008.

3. The management appeared and filed Written Statement. The case of the management, in short, is that this is a dispute for non-payment of wages from 5-9-03 to 29-8-04 and therefore it cannot be raised by the individual as it does not come within the purview of Section 2A of the Industrial Dispute Act, 1947 (in short the Act. 1947). The workman was appointed on 30-12-1989/1-1-1990 as time rated General Mazdoor Cat-I at the office of the Deputy Chief Mining Engineer, West Chirimiri Colliery. He was habitual absentee from duty unauthorisedly without information, permission or sanctioned leave. He was absent from duty from July 2003 to 12-5-2004 and a chargesheet dtd 14-5-2009 was issued. Despite receipt of the charge sheet he did not give any reply nor reported on duty and

continued to remain absent. The period of unauthorized absence was treated as "no work no pay" and was permitted to resume duty on interference by the Conciliation Officer to keep industrial harmony in the industry and to maintain good gesture by the employer. It is submitted that the dispute raised by the workman himself is not maintainable and the workman is not entitled to receive wages of the period of absence.

4 The following issues are for adjudication—

- I. Whether the workman is entitled to raise industrial dispute individually?
- II. Whether the action of the management in denying wages of the workman from 5-9-2003 to 29-8-2004 on the principle of "no work no pay" is legal and justified ?
- III. To what relief the workman is entitled?

5. Issue No. I

On perusal of the reference order, it is clear that it is a claim of payment of pay of the period from 5-9-2003 to 29-8-2004. It is also clear from the reference order that the dispute was not raised by the Union or by any member of the executive or other office bearer of any trade Union or by any workman employed in the industry as has been provided in Section 36(1) of the Act, 1947. It is also clear that the dispute also not covers the provision of Section 2A of the Act, 1947. This clearly shows that the dispute raised by the workman himself appears to be not tenable under the provision of the Act, 1947. This issue is decided against the workman and in favour of the management.

6. Issue No. II

According to the management, he was chargedsheeted for his absence but did not give any reply nor reported on duty. It is stated that the period of unauthorized absenteeism from duty has been treated as "No work No Pay" and thereafter he was permitted to resume his duty. The management has examined one witness Shri R.K. Yadav. He is working as Legal Inspector at Area Headquarter, Chirnimi, SECL. He has stated in his evidence that the workman was charge sheeted on 14-5-2004 for his unauthorized absence but he did not reply nor reported on duty despite receipt of charge sheet. His unauthorized absence from duty was treated as "no work no pay" and the wages of the said period was rightly denied by the management. His evidence is unrefuted. There is no reason to disbelieve his evidence. This shows that the action of the management appears to be justified to decide to allow the workman to resume his duty after not paying the pay of the period of his absence on the principle of "no work no pay". This issue is decided against the workman and in favour of the management.

7. Issue No. III

On the basis of the discussion made above, it is clear that the workman was not entitled to raise dispute himself under the Act, 1947. Moreover the action of the management in not paying the pay of his period of absence is legal and justified.

Accordingly the reference is answered.

8. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 30 जुलाई, 2012

का.आ. 2718.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डल्चूसी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 68/02) को प्रकाशित करती है जो केन्द्रीय सरकार को 30-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/97/2001-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 30th July, 2012

S. O. 2718.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. Case No.68/02) of the Central Government Industrial Tribunal cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Western Coalfield Ltd., and their workman, received by the Central Government on 30-07-2012.

[No. L-22012/97/2001-IR (CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/68/02

Presiding officer: Shri Mohd. Shakir Hasan

The General Secretary,
R.K.K.M.S (INTUC),
Chandametta,
PO Chandametta,
Chhindwara (MP)

—Workman

Versus

The General Manager,
Western Coalfields Ltd.,
Pench Area,
PO Parasia
Chhindwara

—Management

AWARD

Passed on this 17th day of July 2012

1. The Government of India, Ministry of Labour vide its Notification No.L-22012/97/2001-IR(CM-II) dated 17-4-02 has referred the following dispute for adjudication by this tribunal:—

"Whether the action of the General Manager, Pench Area of W.C.Ltd. PO Parasia , Distt. Chhindwara (MP) in terminating the service of Shri Manoj S/o Shriram, D.P.R. Token No. 835 of Shivpuri Mine No.2 is legal and justified? If not, to what relief the workman is entitled to?"

2. The workman appeared in the case on 15-12-2005 alongwith his counsel but did not file his statement of claim inspite of several opportunities granted to him. Lastly the reference is proceeded ex parte against the workman on 14-7-2009.

3. The management appeared and filed Written Statement. The case of the management, in short, is that the workman Shri Manoj was appointed as Departmental Piece rated worker (in short DPR) in Vishnupuri Underground Mine No.2. He was habitual absentee without any intimation, permission and sanctioned leave. He was granted several opportunities to improve himself. His attendance particulars are from June 97 to Dec. 97—nil, January 98 to Dec. 98 - 70 days, January 99 to December 99—75 days and January 2000 to June 2000—52 days only. He was chargesheeted on 20-7-99 for unauthorized absence from 17-2-99 to 20-7-99. The workman failed to submit any reply and therefore the Disciplinary Authority decided to conduct departmental enquiry against him. Shri P.S.Rao was appointed as Enquiry Officer and Shri A.V. Rao was appointed as Management Representative. The delinquent workman appeared who sought permission to engage co-worker Shri Hari Prasad Nag, clerk as his Defence Assistant which was allowed. Subsequently the management representative adduced documentary evidence in presence of the workman. The management representative gave his evidence and he was cross-examined by the workman. Thereafter the evidence was closed. The workman did not want to adduce any evidence and the proceeding was closed. The Enquiry Officer submitted his enquiry report holding the workman guilty of the charges. The Disciplinary Authority issued show cause but the workman did not file any reply. The Disciplinary Authority agreeing with the findings of the Enquiry Officer imposed the punishment of termination from services vide order dated 6-9-2000. The workman submitted a representation requesting therein to consider sympathetically. Since he was habitual absentee and therefore the punishment was considered as justified. It is stated that the principle of natural justice was followed and the workman is not entitled to any relief.

4. On the basis of the reference order and pleadings of the management, the following issues are framed—

- I. Whether the departmental enquiry conducted by the management against the workman is just, proper and valid?
- II. Whether the management is required to prove misconduct against the workman in the Tribunal?
- III. Whether the punishment imposed on the workman is just and proper?

IV. To what relief the workman is entitled?

5. Issue No. I

This issue is taken up finally because the reference is proceeded ex parte against the workman. The management has adduced oral as well as documentary evidence. The management has filed the photocopies of the entire departmental proceeding. Annexure M/1 is the chargesheet dated 20-7-99 whereby the workman was chargesheeted for his unauthorized absence w.e.f. 17-2-99. Annexure M/2 is the appointment letter of the Enquiry Officer and the Management Representative. Annexure M/5 is the proceeding of the departmental enquiry. This clearly shows that the workman appeared in the proceeding and had participated in it. This also shows that the workman had cross-examined the management witness in the proceeding. This clearly shows that the opportunity was given to the workman to defend himself. The management had also produced bonus register and Form "B" to prove the misconduct. Thereafter the workman did not want to adduce any evidence in support of the detais and the proceeding was closed. This clearly shows that there was no illegality in conducting the departmental proceeding. Annexure M/8 is the show cause served by the Disciplinary Authority after enquiry report. Annexure M/9 is the punishment order. This shows that the workman did not give any reply of the show cause and therefore the Disciplinary Authority after coming to the finding that the charge was proved, passed the order dated 5-6/9/2000. The entire proceeding shows that the principle of natural justice was followed. I do not find any reason to vitiate the proceeding.

6. The management has examined Shri Rajesh Kumar Sinha, Sr. Personnel officer to support the case of the management. His evidence is fully corroborated the case. His evidence shows that the workman was absent from duty. Unauthorisedly and there is no illegality in conducting the departmental proceeding. This issue is decided against the workman and in favour of the management.

7. Issue No. II

Considering the discussion made above and on perusal of the proceeding of the departmental enquiry, it is clear that the charge of misconduct was proved against the workman in the departmental proceeding. I find that there is no need to prove misconduct in Court. Accordingly the issue is answered.

8. Issue No. III

It is clear from the discussion made above and on perusal of the evidence on record that the workman was habitual absentee from duty. I find that there is no reason to interfering the punishment awarded by the Disciplinary Authority. This issue is decided against the workman and in favour of the management.

9. Issue No. IV

Considering the entire materials on record, I find that the workman is not entitled to any relief. Accordingly the reference is answered.

10. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 30 जुलाई, 2012

का.आ. 2719.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधसंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण, जबलपुर के पंचाट (संदर्भ संख्या 102/91) को प्रकाशित करती है जो केन्द्रीय सरकार को 30-7-2012 को प्राप्त हुआ था।

[सं.एल-22012/122/1983-डी-III (बी) (टी-वी)-आईआर(सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 30th July, 2012

S. O. 2719.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the Award (Ref. Case No. 102/91) of the Central Government Industrial Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to management of WCL and their workman, which was received by the Central Government on 30-7-2012.

[No. L-22012/122/1983-D-III(B)(D-V)-IR (C-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/102/91

Presiding officer: Shri Mohd. Shakir Hasan

Shri Bikau Singh,
Churcha Colliery,
PO Churcha Colliery,
Distt. Surguja (MP)

—Workman

Versus

Manager,
Churcha Colliery of Baikunthpur
Area of WCL
Post Office Churcha Colliery,
Distt. Surguja

—Management

AWARD

Passed on this 10th day of July, 2012

1. The Government of India, Ministry of Labour vide its Notification No.L-220 12/122/83-D-III(B)(D-V) dated 29-4-92 has referred the following dispute for adjudication by this tribunal:—

“Whether the termination of services of Shri Bikau Singh, Timed-rated worker from 18-4-90 by the management of Churcha Colliery of Baikunthpur Area of WCL Ltd. Is justified under Sub-clause of Certified Standing Orders No. 17(1)? If not, then what relief the workman is entitled to?”

2. The case of the workman, in short, is that the workman Shri Bikau Singh was working at Churcha Colliery in underground mine since 8-2-76. Thereafter vide order dated 18-4-79 the workman was employed against the order of sanction dated 21-12-78. It is stated that the employee worked in continuous service for 190 days, therefore he got the permanent status. It is stated that he was served with a chargesheet dated 14-3-80 to which he gave reply. Thereafter no proceeding was initiated and without enquiry the service of the workman was surprisingly terminated vide order dated 17-4-80 in view of serious charges without any enquiry. The workman was not given any opportunity to defend himself. It is stated that the workman was illegally retrenched as he was Secretary of the Union and was raising voice against the illegal distribution of residential quarters. It is stated that the juniors are retained in the service. The provisions of Section 25(G) and 25(H) of the Industrial Dispute Act, 1947 (in short the Act, 1947) is also attracted. It is submitted that the workman be reinstated with all benefits.

3. The management appeared in the reference case and filed Written statement. The case of the management inter alia is that the workman was appointed in temporary capacity as Mazdoor on 18-4-1979 and joined his duties on 19-4-79 for a period of one year as per terms and conditions of the appointment order and sanction received from the Competent Authority. It was in the appointment order that his performance would be watched from time to time and on completion of his satisfactory service, his further appointment would depend. He was irregular in his attendance without leave or proper sanction. He was also a convict in a criminal case and he had misbehaved with his superior staff and was creating serious disciplinary problems. He had committed serious acts of misconduct and as per conditions of appointment, his service was automatically terminated on completion of tenure of appointment. He was terminated as per contract of appointment and therefore enquiry was not necessary. The provision of Section 2 (00)(bb) of the Act is attracted. However if it is found that enquiry should be conducted then the management be given opportunity to lead evidence to prove misconduct before the Tribunal. On these grounds, it is submitted that the action of the management is justified and the workman is not entitled to any relief.

4. During the course of reference proceeding, the workman died on 16-12-03. His legal heirs Gauri Singh and Mahant are substituted in his place.

5. On the basis of the pleadings of the parties, the following issues are for adjudications:

I. Whether the termination of the service of Shri Bikau Singh, Time rated worker by the management as per sub-clause of Certified Standing orders No. 17(1) is justified?

II. To what relief the workman is entitled?

6. Issue No. I

Before discussing the evidence of the parties, it is to mention that both the parties have adduced only oral evidence. None of the parties have proved any

documentary evidence in the case. The workman has filed few original documents but the same are not proved and exhibited. The management has not filed any original documents. Even the appointment order and termination order are also not filed. The management has filed typed copy of incomplete appointment letter without the list of workers who were said to have been appointed and has also filed typed copy of termination order. These documents are inadmissible in evidence. The management has not explained any reason as to why the original documents were not filed in the Tribunal. When there is existence of a document, the oral evidence on the point that the workman was appointed in temporary capacity as Mazdoor for a period of one year as per terms and conditions of the appointment order is not to be relied. The original appointment letter is only fit to prove the said facts.

7. Now let us examine the evidence of the workman to determine the point for consideration. The workman Shri Bikau Singh now dead is examined in the case. He has stated that he was appointed at Churcha Colliery on 8-2-76 and was working since then. He has stated in cross-examination that he had not received any written appointment order. He has further stated that he received termination order on 18-4-80. His evidence shows that he was appointed on 8-2-76 without any written appointment order whereas the case of the management that he was appointed on 18-4-79 for a period of one year as per terms and conditions of the appointment order. This shows that according to the management there was appointment order with terms and conditions of his appointment. No such appointment letter is filed by the management.

8. Another witness Shri Girwardhari Singh of the workman was also working in the Churcha Colliery. He has stated that Shri Bikau Singh was also appointed in the said colliery from 8-2-76 along with 105 workers. He has supported this fact that Shri Bikau Singh was Secretary of the Union and he was raising demand for committing irregularities of the allotment of quarters by the management. There is nothing in his evidence to disbelieve this witness. His evidence clearly shows that the workman Shri Bikau Singh was appointed on 6-2-76 along with 105 workers at Churcha Colliery and was working since then. It is also clear that no appointment letter was issued. As such his appointment appears to be temporary or casual in nature.

9. On the other hand, the management has also adduced oral evidence. The management witness Shri S.K. Choubey was working as Office Superintendent in Churcha colliery. He has stated that Shri Bikau Singh was appointed as substitute/temporary workman vide order of appointment dated 18-4-79 but no such appointment order is filed by the management. In cross-examination at para-14, he has stated that in January 1979 Shri Bikau Singh had worked 9 days, in Feb. 79 - 19 days and in March 1979- 25 days. This fact is contradictory to the case of the management that the workman was appointed on 18-4-79. His evidence clearly shows that the workman was working from before as has been stated by the workman. There is only two stories—one of the workman that he was working

since 6-2-76 whereas the another story of the management is that he was appointed on 18-4-79. The evidence of the management itself shows that the workman was working before 18-4-79. The case of the workman appears to be probable and acceptable.

10. Another management witness Shri Arvind Kumar Mehta is presently working as Personnel Manager (HR), WCL, Nagpur. He has stated that the workman Shri Bikau Singh was appointed vide order No. 646 dated 18-4-79 by Superintendent of Mines, Churcha Colliery. His appointment was for a period of one year. He has stated the conditions enumerated in the appointment order. The said appointment order is not filed by the management. The appointment order can only prove the terms and conditions of the appointment of Shri Bikau Singh. In absence of appointment order, it cannot be said that he was appointed for one year whereas other management witness has contradicted his evidence whose evidence shows that Shri Bikau Singh was working from before 18-4-79. This witness has stated that he cannot say that the workman was appointed on 8-2-76. Thus it is evident from the above discussion that the workman was working since 8-2-1976 and was terminated on 17-4-1980.

11. Another important question for consideration is as to whether the workman shall be deemed to be—in continuous service for a period of one year during a period of twelve calendar months preceding the date with reference to which calculation is to be made for not less than 190 days in case of a workman employed below ground in a mine. Admittedly the workman was employed in underground in Churcha Colliery. The workman has stated in cross-examination that he had worked in the year 1979 for only 179 days. He cannot say that how many days he worked in 1980. Admittedly he was terminated from service on 17-4-1980. This shows that he had not worked 190 days in twelve calendar months prior to date with termination and therefore his service shall not be deemed to be one year in continuous service as required under Section 25 (B)(2) of the Act, 1947 for the employee who worked in underground mine.

12. The management witness Shri S.K. Choubey has also supported the case of the management. He has stated at para-15 that the workman had worked from April 1979 to April 1980 for 146 days. This shows that his service shall not be treated as continuous period of one year in view of the provision of Section 25(B)(2) of the Act, 1947. Thus it is clear that the provision of Section 25-F of the Act, 1947 is not attracted. It is evident that the action of the management is justified in terminating the service of the workman whose service was of casual nature. This issue is decided in favour of the management and against the workman.

13. Issue No. II

On the basis of the discussion made above, it is clear that the workman is not entitled to any relief. Accordingly the reference is answered.

14. In the result the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 1 अगस्त, 2012

का.आ. 2720.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक के प्रबंधनतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 31/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 1-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/3/2006-आई.आर. (बी-1)]

रमेश सिंह, डेस्क अधिकारी

—New Delhi, the 1st August, 2012

S. O. 2720.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Reserve Bank of India and their workmen, received by the Central Government on 1-8-2012.

[No. L-12012/3/2006-IR (B-1)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/31/2008 Date : 18-7-2012

Party No. 1: The Assistant Manager, DAPM,
Reserve Bank of India, PB No. 15.
• Dr. Raghavendra Rao Road, Civil Lines,
Nagpur-440001.

Versus

Party No. 2 The Deputy General Secretary,
All India Reserve Bank Workers Orgn.,
306-Mangal Murty Apt., Dharampeth,
Khare Town, Nagpur-440010.

AWARD

(Dated: 18th July, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Reserve Bank of India and their Union, for adjudication, as per letter No. L-12012/3/2006-IR (B-1) dated 9-9-2008, with the following schedule :—

"Whether the action of the management of Reserve Bank of India in not resolving the 9 charter of demands as per enclosed annexure hereunto, is legal

and justified? If not, to what relief is the union entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the Union, "All India Reserve Bank Workers Organisation", ("the union" in short), filed the statement of claim and the management of Reserve Bank of India, ("Party No. 1" in short) filed its written statement.

The case of the union as presented in the statement of claim is that it is affiliated to All India Federation of Registered Trade Unions of employees working in the Reserve Bank of India, which are affiliated to "Bhartiya Mazdoor Sangh" and it represents employees of the Reserve Bank of India, as a Federation of Trade unions and it is a Trade union as defined u/s. 2 (qq) of the Act read with section 2(h) of the Trade Unions Act and the Act does not mention about the words "Recognized Trade Union" and neither there is such definition nor there is any provision as to how recognition can be given to any Trade Union or unions operating in any industry and though section 28 A to 28 I of Chapter-III of the Trade Unions Act deal with the law relating to recognition of Trade Union, the said provisions have never been put to operation by the Central Government and have thus remained a dead letter on the statute book and as such, the Trade Unions Act, 1926 has no provision about recognition of Trade unions in an industry and though there is provision regarding the recognition of Trade Unions in the Maharashtra Trade Unions and Prevention of Unfair Labour Practices Act, 1971, but the same being, a state Act is applicable only to the industries, for which the appropriate Government is the State Government and not the Central Government and in absence of any specific provisions in any applicable Statute, Reserve Bank of India does not have any right to recognize any particular Trade Union of its choice for any purpose at least by treating some of the other unions operating in the Reserve Bank of India as unrecognized Trade Unions and therefore, the action of the Reserve Bank of India in awarding recognition to "All India Reserve Bank Employees' Association" only and not to other Trade Unions operating in Reserve Bank of India is unsustainable in law, the same being discriminating and unfair.

The further case of the union is that it being a Trade Union of class-III employees of the Reserve Bank of India, submitted a charter of demands pertaining to wage revision of the employees as well as in regard to addition and or amendment to existing service conditions and facilities given to the employees on 31-10-2002 and the said demands were such, which require negotiation and discussion and then to arrive at a settlement to be signed under the provision of the Act, but except acknowledging the charter

of demands submitted by it, nothing was done by the party no.1 and party no.1 did not consider the demands submitted by it and preferred to sign settlement on the issues raised by the union, "All India Reserve Bank Employees' Association" after making discussions with the office bearers of the said union and a total discriminatory treatment was given to it, as a result of which, all the demands raised by it in the charter of demands dated 31-10-2002 remained unresolved.

The further case of the union is that in the advent of time between submitting of charter of demands and the date on which, the Central Government referred the dispute for adjudication on 9-9-1998, some of the issues mentioned in the charter of demands lost its importance and significance and as such, it is confining its claim in respect of the demands regarding time bound promotions to class-III employees, family allowance, house rent allowance, gratuity payable to employees, pension as third retirement benefit and rectification of wages, for adjudication and the demands raised by it remained unresolved, because of the arbitrary and unreasonable stand taken by the party no.1 that it is not a recognized union and as per their policy, such issues if raised by the recognized union shall be discussed with the said union and settled if necessary and the action of the party no. 1 amounts to unfair labour practice as incorporated in Section 2 (ra) read with item 2(b) of the V Schedule to the Act and it is entitled to be treated at par with other Trade Unions operating in RBI and is also entitled for equal treatment as is being given to other Trade Union by the management of RBI, while considering and resolving the charter of demands pertaining to interest of employees of RBI.

The union has prayed to declare the action of the RBI in only considering the charter of demands submitted by "All India Reserve Bank Employees Association" as illegal and not considering and resolving the charter of demands submitted by it as unfair labour practice and illegal and unjustified and to direct the RBI to discuss and negotiate with it over the demands made by it.

3. The party no.1 in their written statement has pleaded inter-alia that the union is an unrecognized minority union having membership of 5.36% of the total working strength of employees in class-III as on May 31, 2008 on all India basis and the demands of the union made vide charter of demands dated 31-10-2002 had been fully considered, while negotiating and arriving at a settlement on October, 5, 2005 with the majority recognized union, viz. "All India Reserve Bank Employees Association (AIRBEA)" and RBI is a statutory corporation under the Reserve Bank of India Act, 1934 and the service conditions of its employees are governed by the RBI (Staff) Regulations, 1948 and also by awards of the National Industrial Tribunal, Industrial Tribunal, Bilateral Settlements with recognized trade unions of class-III and IV employees of the Bank and administrative instructions issued by the Bank from time to time and as per the code of discipline agreed in the

tripartite meeting held in 1966 between the RBI, the Ministry of Labour, Govt. of India and the unions, the Bank had agreed to recognize one trade union each, at all India level, to represent the class-III and class-IV employees, which has the majority membership and has minimum 25% of respective category of employees on all India basis and similarly at the local level, in each office, it was agreed to recognize one trade union each to represent the class-III and class- IV employees which has the majority membership and minimum of 25% membership among the respective category of employees in the local office and they holds discussion on wage matters and other service conditions of employees with the recognized all India bodies viz. All India Reserve Bank Employees Association and All India Reserve Bank Workers' Federation and with the local recognized association/union in regard to local matters/problems and on 31-5-2008, the All India Reserve Bank Employees Association representing majority membership among the class-III employees and had a membership of 89.26% on all India basis and the union (applicant) is the minority union having membership of 5.36% of the total working strength of employees in class-III among the class-III staff on all India basis and in pursuance of the said code of discipline, it has recognized the All India Reserve Bank Employees Association to represent the class-III staff.

The further case of the RBI is that its policy, to strictly adhere to the understanding of recognizing only one trade union in class-III, having majority membership in that category has proved beneficial in maintaining industrial peace and any departure from this policy may have untoward repercussions and the two unrecognized unions viz. All India Reserve Bank Workers' Organization and All India Reserve Bank Employees' Federation, which came into existence much later had raised industrial disputes in January, 1989 specifically for not inviting them for negotiations on the charter of demands and the said dispute was referred by the Government of India to the Industrial Tribunal for adjudication and the Tribunal gave its award on 28-2-1991, which on appeal, was set aside by the Hon'ble Mumbai High Court by order dated 16-9-1994 upholding its stand with the observations that, "I do not find any fault at all if the Reserve Bank of India decides, as a matter of policy, to deal with, negotiate and enter into settlement with a union which has the overwhelming large majority of the employees belonging to class-III" and the Hon'ble High Court also directed to take into consideration the charter of demands submitted by the unrecognized unions, but left it to the discretion of the Bank to decide whether or not to call the unrecognized unions for discussion across the table and accordingly the charter of demands submitted by the union was considered by it alongwith that of the AIRBEA and the decisions taken thereon were communicated to the union in writing vide letter dated 10-10-2005.

The further case of the RBI is that the dispute is not an industrial dispute within the meaning of the definition of Section 2 (k) of the Act and since the charter of demands of the Union was considered and the decision taken thereon was intimated to the union on 10-10-2005, there was no

industrial dispute and it has never committed any unfair labour practice as alleged by the union and the demands of the union dated 31-10-2002 was considered point wise and wherever it was possible the views/suggestions have been taken into consideration and with charter of demands of the union cannot be considered as a settlement by the settlement dated 5-10-2005 and therefore, the union is not entitled for any relief.

5. In support of their claims, the union examined Shri Sanjay Murahith Chaturvedi their General Secretary as a witness. Shri Chaturvedi in his evidence on affidavit has reiterated the facts mentioned in the statement of claim. However, in his cross-examination, this witness has admitted that "All India Reserve Bank Employees Association" is the major union and the union is a minor union and vide letter dated 10-05-2005, the management of Bank had intimated their union that there was no discussion between the management and the union in respect of the charter of demands submitted by their union on 31-10-2002 and the management had also intimated about the decisions taken on the said charter of demands.

6. The RBI examined Shri N. S. Chacko, an Assistant General Manager as a witness in support of their claims. In the examination-in-chief, which is relevant, this witness has reiterated the facts mentioned in the written statement. In his cross-examination, this witness has stated that three registered unions are functioning in the RBI, out of which, two unions are of class-III employees and one is of class-IV employees and he cannot say if there is any provision regarding recognition of a trade union by the management. During the cross-examination, this witness volunteered that the suggestions and problems raised by the unregistered unions and suggestions given by them are taken cognizance by the management of RBI and the same are included in the agenda of discussion with the recognized union and the weightage is being given to such problems and suggestions by the management of RBI after due discussion with the recognized union and this witness has further stated that to his knowledge, all the demands raised by the union were considered by the management of RBI and settled.

7. At the time of argument, it was contended by the learned advocate for the union that neither in the Act nor in the Trade Unions Act or any other Act applicable to the RBI, there is any provision regarding giving of recognition to any union by the management and though such provisions are there in the Trade Unions Act, the same have not yet made applicable by the Central Government and further, while it is true that the industrial dispute is a trade union, which has raised the industrial dispute is a trade union and under section 2 (qq) of the Act read with section 2(h) of the Trade Unions Act, 1926 and when there is no specific provision of giving recognition to any particular Trade union by the RBI, the RBI has no right to recognize any particular trade union of

its choice and as such, the action of the RBI in giving recognition to the union, All India Reserve Bank Employees Association only and not to other trade unions amount to unfair labour practice as per Section 2(ra) read with item 2(b) of the V schedule to the Act and the action of the RBI in not considering and resolving the demands of the union amounts to gross unfair labour practice as submitted above and the action of the RBI in not inviting the union for discussion and negotiation of the charter of demands made by them is quite illegal and unjustified and as such, the same is required to be determined and declared by the Tribunal in the interest of justice.

8. On the other hand, it was submitted by the representative for the management that the union in question is not a recognized union and as per the code of discipline settled in the tripartite settlement in 1966 between the RBI, Ministry of Labour, Govt. of India and the unions, the RBI is to recognize one union representing the class-III having the majority employees and one union representing the class-IV employees having the majority of the Bank and any deviation from the said understanding would not be proper as there is every possibility that the same may lead to industrial unrest in the Bank and the Bank and the recognized unions have accepted the code of discipline and in terms of such code of discipline, both the parties have accepted certain obligations and one of the obligations enjoined upon the Bank is to recognize one union with largest membership of class-III employees and the union, "All India Reserve Bank Employees' Association" has the all-India membership of 89.26% among class-III staff as on 31-05-2008 and the said recognized union enjoys the confidence of the majority of class-III employees and as such, the RBI did not give recognition to any other union or to hold negotiation on demands with the minority union and as such, there is no question of any unfair labour practice as claimed by the union and it is clear from the materials on record that the charter of demands submitted by the union was considered by the management of RBI and the decisions taken on such charter of demands were communicated to the union on 10-10-2005 and as such, there was no industrial dispute. It was further submitted that similar and the same issue was raised by two minor unrecognized unions in January, 1989 and the Tribunal answered the reference in favour of the unions, but the RBI filed a writ before the Hon'ble High Court of Bombay being no. 1639/91 and the Hon'ble High Court by order dated 16-9-1994 quashed the final order of the Tribunal and the union is not entitled to any relief.

9. Perused the record including the documents produced by the parties. From the evidence on record, it is clear that the RBI considered the charter of demands submitted by the union on 31-10-2002 point wise and intimated such decisions to the union as per letter dated 10-10-2005. Hence, there existed no industrial dispute, when the reference was made by the Central Government.

10. It is found from the pleadings of the parties and submissions made by them that the main controversy between them is in respect of the RBI only recognizing the union, "All India Reserve Bank Employees' Association" and not inviting or allowing the present union to discuss and negotiate about the demands made by them. At this juncture, it is necessary to mention that the schedule of reference does not specifically have anything about such issue. However, in the interest of natural justice and holding that the said issue is incidental to the issue referred to in the schedule, I think it proper to consider the same.

11. Before delving into the merit of the submissions made by the parties as mentioned above, I think it proper to mention the principles enunciated by the Hon'ble Apex Court in this regard in the decision reported in AIR 1966-305 (All India Reserve Bank Employees Association Vs. Reserve Bank of India) and the Hon'ble High Court of Bombay in Writ Petition no. 1639 of 1991.

The Hon'ble Apex Court in the decision reported in AIR 1966-305 (Supra) have held that:—"The next demand made by both the association and the union was that they should be allowed to participate and represent workers in disputes between an individual workman and the Reserve Bank. The Tribunal did not accept this contention for the good reason that if unions intervene in every industrial dispute between an individual workman and the establishment the internal administration would become impossible. In our judgment, this demand cannot be allowed."

12. The Hon'ble High Court of Bombay In writ petition no. 1639 of 1991 have held that:—

"In the result the final order or declaration in the award to the effect that "It is further declared that the action of the management of the Reserve Bank of India in not inviting the organization and the federation for discussions of their charter of demands is not justified. The management is directed to give up this practice and call these unions also for discussions of their demands" is quashed and substituted by the following:—

"It is further declared that the action of the management of the Reserve Bank of India is not taking into consideration the charter of demands by the organization and the federation is not justified and the Reserve Bank of India is directed to take into consideration the charter of demands by the organisation and the federation as well".

In what manner the said demands or charters may be considered and whether the management will invite the organization and federation for actual personal discussion will depend upon the nature of the demands and other relevant circumstances, which will have to be left to the discussion of the Reserve Bank of India". The award accordingly will stand modified."

13. Applying the principles enunciated by the Hon'ble Apex Court and the Hon'ble Bombay High Court in the decision in AIR 1966-305 (Supra) and writ petition no. 1639/91 respectively, to the facts and circumstances of

the present case in hand, it is found that the action of the RBI in not inviting the union for discussion and negotiation on the charter of demands and in recognizing the union having majority cannot be said to be unfair labour practice or the same to be illegal or unjustified. Hence, the submissions made by the learned advocate for the union on that score fail. Hence, it is ordered:—

ORDER

The reference is answered in negative. The union is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 1 अगस्त, 2012

का.आ. 2721.—औद्योगिक विभाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सतना स्टोन एंड लाइम कंपनी लिमिटेड, जलेकलता के प्रबंधित्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुसंध में निर्दिष्ट औद्योगिक विभाद में केन्द्रीय सरकार औद्योगिक अधिकारण/अप न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 42, 43, 47, 48, 85, 86, 87 और 88/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 20-7-2012 को प्राप्त हुआ था।

[सं. एल-29012/70, 71, 75, 76/2007-आई आर (एम) एवं
सं. एल-29012/60, 61, 62, 63/2008-आई आर (एम)]

जहान तोपनी, अवर सचिव

—New Delhi, the 1st August, 2012

S. O. 2721.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No 42, 43, 47, 48, 85, 86, 87 and 88/2008) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Satna Stone Lime Co. Ltd. (Kolkata) and their workman, which was received by the Central Government on 20-7-2012.

[No. L-29012/70/71, 75, 76/2007-IR(M)
and No. L-29012/60, 61, 62, 63/2008-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Presiding Officer : SHRI MOHD. SHAKIR HASAN
CASE NO. CGIT/LC/R/42/08, 43/08, 47/08, 48/08, 85/08, 86/08, 87/08 and 88/08

Shri Ram Saroj Kuswaha,
General Secretary,
AITUC Distt. Parishad,
AITUC Office, Sidharth Nagar,
Post Birla Vikas,
Distt. Satna (MP)

... Workmen Union

Versus

The Managing Director,
Satna Stone Lime Co. Ltd.,
6, Middle Road, Hasting,
Kolkatta

... Management

AWARD

Passed on this 1st day of June, 2012

(1. (a) The Government of India, Ministry of Labour vide its Notification No.L-29012(70)/2007-IR(M) dated 25-2-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-00 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Smt. Tersia Chamaarin W/o Shri Dadedi Chamaar and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(b) The Government of India, Ministry of Labour vide its Notification No.L-29012(71)/2007-IR(M) dated 25-2-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Achhelai Kotwar, S/o Shri Ramdas Kotwar and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(c) The Government of India, Ministry of Labour vide its Notification No.L-29012(75)/2007-IR(M) dated 25-2-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Sadhulal Chamaar S/o Shri Vasudev Chamaar and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(d) The Government of India, Ministry of Labour vide its Notification No.L-29012(76)/2007-IR(M) dated 25-2-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Saukhilal Teli S/o Shri Ramgarib Teli and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(e) The Government of India, Ministry of Labour vide its Notification No.L-29012(60)/2007-IR(M) dated 10-6-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna, MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Smt. Dasodia Kolin W/o Shri Babulal Kaul and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(f) The Government of India, Ministry of Labour vide its Notification No.L-29012(61)/2007-IR(M) dated 10-6-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna, MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Smt. Molia Kolin W/o Shri Kudedha Kaul and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(g) The Government of India, Ministry of Labour vide its Notification No.L-29012(62)/2008-IR(M) dated 10-6-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Smt. Ramkali Kolin W/o Shri Ramkhalen Kaul and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(h) The Government of India, Ministry of Labour vide its Notification No.L-29012(63)/2008-IR(M) dated 10-6-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Smt. Ramrati Chamaar W/o Shri Ramsiya Chamaar and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

2. All the eight reference cases are taken up together as all are on a common subject matter and on common issues between the same parties.

3. In these cases, neither the Union nor his workmen appeared in the case inspite of notices by registered post separately. This shows that now there is no dispute in existence. The Union or the workmen do not want to raise the dispute with the management.

4. On the other hand, the management has also not appeared in any of the reference cases inspite of registered notices. This aspect also indicates that there is no dispute between the parties. These are the cases of no dispute. Accordingly all the above references are answered.

5. In the result, a common no dispute award is passed in all the references without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 1 अगस्त, 2012

का.आ. 2722.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतांत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 101/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था।

[सं. एल-12012/89/2010-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

—New Delhi, the 1st August, 2012

S. O. 2722.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 101/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 27-7-2012.

[No. L-12012/89/2010-IR (B-1)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Present : Dr. MANJU NIGAM, Presiding Officer

I.D. No 101/2011

Between :

Sri Gorelal

P.O. Naini

Allahabad

And

The Chief Manager

State Bank of India,

Naini Branch

Naini Allahabad

ORDER

By order No. L-12012/89/2010-IR (B-1) dated 26-5-2011, the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sri Gorelal, P.O Naini, Allahabad and the Chief Manager, State Bank of India, Naini Branch, Allahabad for adjudication.

2. The reference under adjudication is:

“Whether the action of the Management of State Bank of India, Kanpur in Terminating Sri Gorelal from service w.e.f. 21-3-2009 is legal and justified? to what relief the workman is entitled?”

3. The order of reference was endorsed to the opposite parties and to this Tribunal; and accordingly on receipt of the same the case was registered and notice was sent to the workman. The workman was present on various dates but he failed to file claim statement.

4. As per provision contained in the rule 10(B) of the Industrial Disputes (Central), Rules, 1957, the party raising the dispute was required to file the statement of claim alongwith relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of the order of reference and also forward a copy of such a statement to each one of the opposite parties involved in this dispute but the workman failed to comply with the said requirement; and none turned up from workman's side.

5. From perusal of the records it is very much evident that after registration of the case on 27-6-2011 the workman put up his appearance on 16-1-2012 and seeking time for filing statement of claim, but failed to file any statement of claim, even after lapse of considerable time. Thus, failure of the workman in filing of the statement of claim indicates that the workman is not willing to contest its case any more.

6. In the above circumstances, it appears that the workman does not want to pursue its claim on the basis of

which it has raised . present industrial dispute; therefore, the present reference order is decided as if there is no grievance left with the workman. Resultantly no relief is required to be given to the workman concerned. The reference under adjudication is disposed off accordingly.

7. Award as above.

Lucknow 16-7-2012

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 2 अगस्त, 2012

का.आ. 2723.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऐसर्स इंडियन आयल कॉर्पोरेशन लिमिटेड, मथुरा रिफाइनरी, मथुरा के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 25/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 2-8-2012 को प्राप्त हुआ था।

[सं. एल-30012/10/2009-आई आर (एम)]

जोहन तोप्नो, अवर सचिव

—New Delhi, the 2nd August, 2012

S. O. 2723.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No 25/2009) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Indian Oil Corporation Ltd. Mathura Refinery (Mathura) and their workman, which was received by the Central Government on 2-8-2012

[No. L-30012/10/2009- IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No.25 of 2009

Between :

**Sri Harish Chandra Gupta,
B-10, Kadamb Vihar,
Mathura**

And

**The Executive Director,
Indian Oil Corporation Limited,
Mathura Refinery,
Mathura.**

Appearance :

**Sri Abhishek Srivastava, Advocate for the
applicant/workman.**

**Sri Ashwani Mishra Advocate &
Sri Ankush Tandon, Advocate;
Both for opposite Party.**

AWARD

1. Central Government, MOL, New Delhi, vide notification no. L-30012/10/2009-IR(M) dated 17-4-09, has referred the following dispute for adjudication to this tribunal —

2. Whether the action of the management of Indian Oil Corporation Limited, Mathura Refinery, Mathura, in dismissing Sri Harish Chandra Gupta from services of the corporation with effect from 31-7-08, on the basis of finding of inquiry officer is legal and justified? What relief the workman concerned is entitled to?

3. Brief facts are —

4. It is alleged by the claimant that while he was in service of the opposite party at the post of pharmacist, his services were removed by the opposite party with effect from 27-10-89 on the ground of some incident took place in the hospital of the opposite party during night on 23-10-89. It is also alleged that the opposite party also lodged a FIR with the police against the claimant along with employees of the Hospital. The said case was culminated into acquittal of the applicant. Before the final decision of the criminal court the claimant had assailed the order of dismissal before the Hon'ble High Court of Judicature which was decided by the Hon'ble High Court vide order dated 2-4-04 whereby the dismissal order passed by the opposite party was set aside and the opposite party was given liberty to proceed departmentally against the workman. Consequent upon the order of the Hon'ble High Court, the claimant was reinstated in the service by the opposite party vide order dated 20-4-04 with effect from 2-4-04.

5. It is again pleaded by the claimant that after his reinstatement in the service, the management preferred to issue a charge sheet dated 28-5-04 and after holding a detailed inquiry into the said charge sheet the management again dismissed the workman from service by means of order dated 31-7-2008

6. Feeling aggrieved by the aforesaid order of the management the claimant raised the present industrial dispute.

7. In the claim statement apart from pleading factual position of the case on legal aspect it was pleaded by him that the inquiry held against him was not in consonance with principles of natural justice, no effective opportunity of his defense was ever afforded by the inquiry officer, no opportunity to cross examine the prosecution witnesses was afforded to him. It is also pleaded that the finding arrived at by the inquiry officer is perverse as the inquiry officer has mainly based his findings on the basis of photocopies available on the inquiry file where as hard fact remains that despite demand of originals the presenting officer never produced the same before the inquiry officer, his other colleagues who were also tried by criminal court are still in the employment of the opposite party, charge

sheet is not issued by a competent authority, punishment order too has not been passed by the competent authority as provided under Certified Standing Orders and lastly it is also pleaded that while working with the management at the post of Pharmacist was removed from service with effect from 27-10-89 by invoking the provisions of Certified Standing Orders, whereas these standing were made effective with effect from 28-10-89 therefore under these circumstances the punishment is without jurisdiction illegal and quite harsh and discriminatory, therefore, the punishment order passed by the opposite party is liable to be set aside and he is entitled to be reinstated in the service of the opposite party with full back wages and all consequential benefits.

8. Contrary to above, the opposite party has filed their reply denying all the allegations of the claimant. It is pleaded that the misconduct committed by the claimant as detailed in the charge sheet is of grave nature and considering the gravity of the misconduct the punishment awarded to the claimant should not be interfered. It is also pleaded that no irregularity or rules of natural justice has been flouted by the inquiry officer during conduct of inquiry and all reasonable and fair opportunity for his defense was afforded to him and he fully participated in the inquiry along with his defense representative. Charge sheet is legal and valid and the punishment has rightly been awarded by the authority that was competent under the Certified Standing Orders applicable on the Refinery. Punishment is not discriminatory and the persons found guilty in the aforesaid misconduct have suitably been dealt with considering their conduct in the misconduct as detailed in the charge sheet.

9. Lastly it is pleaded that considering the facts and circumstances of the case and evaluating the gravity of the misconduct committed by the claimant, it is not a fit case where this Hon'ble Court should interfere with the order of punishment. It is also pleaded by the management that the management introduced fresh duty rota system in the hospital with effect from 23-10-89.

10. Rejoinder statement has also been filed by the claimant where in nothing new has been pleaded.

11. After exchange of pleadings this tribunal framed a preliminary issue regarding fairness of inquiry and vide its order dated 2-6-11 held that the inquiry was not conducted fairly and properly and the management was given liberty to lead evidence in support of their charges.

12. Heard and perused the record.

13. The claimant has filed an application dated 1-6-2011 along with affidavit to take original of document which is Annexure A and B on the record.

14. He has also filed 58 documents vide list dated 13-5-09 which is also being enclosed and shall form part of this award. (copy enclosed).

15. He has also filed several documents serial no. 59 to 70 vide list no. 23/1-2. These contains copy of model Standing Order, Copy of representation, copy oral testimony of

Dr. A. K. Sen, Prosecution witness in the criminal case and copy of oral testimony of other witness. List of documents which is paper no. 23/1-2 will form part of this award. (copy enclosed).

16. The relevancy of the documents filed by the claimant shall be examined at the appropriate stage in the body of the award.

17. Opposite party has also filed several documents. They have filed certain photocopies and original documents along with an application which is paper no. 30/1-30/5, the relevancy will be considered at the appropriate stage.

18. They have also filed 16 documents vide list 22/1 and the serial number of these documents is 22/2-22/68, the relevancy of these documents wherever necessary shall be considered.

19. They have also filed 8 documents vide list 13/1 dated 11-9-2009. These documents are at serial number 12/1-12/68. They have also filed 37 documents vide list 43/1-43/2 dated 16-9-2011. These documents are serial no. 43/5-43/268. The relevancy of these documents while analyzing the evidence and a copy of list of management which documents have been filed shall form part of this award,

20. Heard and perused record.

21. It is a fact that inquiry has been found vitiated by this tribunal. Though the reference was on this point whether the action of the opposite party in dismissing the Charge Sheet Employee (for short CSE) with effect from 31-7-08, on the basis of finding of inquiry officer is legal and justified. It is contended by the A.R. for the workman that the dismissal of the services of the workman without conducting any inquiry, if it is taken to be correct according to the terms of the reference order, then it should be held that the dismissal was wrong on the basis of finding of the inquiry officer. But still, the tribunal has given the opposite party a complete chance to establish the charges against the CSE.

22. The opposite party has produced 4 witnesses, namely M.W. 1 Dr. S. A. Abbas, M.W. 2 Sri D. V. Oak, M. W. 3 Dr. V. N. Mishra and lastly Dr. Amit Kumar Sen (MW 4).

23. These are the four witnesses and the other material documentary as well as oral which had been produced by the opposite party during the inquiry has been thoroughly considered to see whether the management has been able to establish the charges.

24. It is contended by the authorized representative for the workman that the management has miserably failed to establish the charges against the CSE, whereas it is contended by the A.R. of the opposite party that in such cases the yardstick of

standard of proof is not that is required in a criminal case, the standard of proof in departmental proceedings is preponderance of evidence and probabilities.

25. The management has relied upon a number of decisions like AIR 2005 SC 2179, Manager RBI Versus S. Money and Others. Similarly there are other decisions like 2006 SC 3533 South Bengal State Transport versus Swapna Kumar Mitra.

26. I respectfully agree with the principle propounded by the Hon'ble Apex Court. But still, I would like to say, that the first burden, after the domestic inquiry conducted by the management was declared vitiated, lies upon the management to prove the charge before the tribunal.

27. To come to the conclusion it becomes incumbent to reproduce some of the charges.

28. First charge is that as per the revised duty rota you were attending duty in the evening shift of 23-10-89, at Mathura Refinery Hospital. However, in the night of 23-10-89, when the doctors of the hospitals namely Dr. A. K. Sen, the then JCMO, Dr. V. N. Mishra, Dr. S. A. Abbas and Dr. R.K. Patel, the then DCMOs, Dr. R.K. Singhal and Dr. Pratibha Singhal were having a meeting at the hospital in the room of Dr. A. K. Sen at or about 09.40 p.m. you entered in the room of Dr. A.K. Sen with a crowd of about 30 persons comprising other pharmacists Sri R. K. Gautam, Ajai Bajapai, Douji Ram and R. L. Gautam and their wives along with some other employees. You along with Sri R. K. Gautam then led and instigated the crowd in hurling abuses and threats of dire consequences against the doctors present unless the revised duty rota was immediately withdrawn. Thereafter at your instigation the group of persons attacked the doctors present by throwing paper weight and sandals etc. and the hospital records and equipment lying in the room at the doctors present, resulting in Dr. A.K. Sen being injured and further resulting in the glass top of Dr. A.K. Sen's Table being broken. You along with others in the crowd thereafter continued with the above action and kept the doctors forcefully and illegally confined in the room for almost three hours until signature on the documents hereinafter referred to withdrawing the revised duty rota was obtained and released the doctors from the room only after the said document was signed.

29. Second charge is having come to know about the above incident in the hospital the then commandant CISF Sri R.C. Kalia along with Sri N.S. Narang the then SPAM, D.V. Oak and S.L. Verma rushed to the hospital at around 10.30 p.m. and tried to counsel you and others present in the room of Dr. Sen to desist from such action. However you along with others not only refused to heed to their request, but instead confined these officers also in the room with the doctors and threatened them also with dire consequences.

30. Third charge is you and Sri R. K. Gautam threatened Sri Narang and Dr. A. K. Sen with dire consequences including fatal harm to them if they do not agree and sign the note showing continuation of old rota system. Under such threats and under the wrong full

confinement and duress you forcefully obtained the signature of Dr. A. K. Sen and Sri N. S. Narang on a note stating that the old rota system will continue and new rota system will not be implemented.

31. Charge no. 4 is that you were at all times illegally carrying a weapon while delivering the threats

32. These are the four charges, which appears to be very very grave in nature, if proved then in such circumstances an employee is not required to be retained in service of his employer. He/She becomes like a deadwood which should be chopped off if the facts are proved.

33. But after going through the charges and evidence adduced by the management either in the tribunal or before the inquiry officer this fact is not denied that whole incident which is grave in nature is revolving around Dr. Amit Kumar Sen, who is a Senior JCMOs. The incident took place in his room. It is also there that he has prepared the new revised duty rota system, due to which the pharmacists and other employees of the hospital were annoyed. The meeting was going in his room.

34. Now I have examined the statement of Dr. A.K. Sen which is produced before the tribunal on oath as well as statement given by him before the inquiry officer as well before the criminal court, he has nowhere named the CSE Harish Chandra Gupta that he was leading the mob along with R.K. Gautam. In the statement before this tribunal when he was thoroughly examined and cross examined, he specifically stated that when the meeting was going on to implement and to see the effects of revised rota system, suddenly the pharmacist Sri R. K. Gautam, pushed open the door by pushing a leg on it and entered the room along with other pharmacists and employees and outsiders whom he did not recognize. They were using filthy and hurling languages and they also advised to quit the room by the lady doctors. There gathered a huge mob in my room and my room was fully occupied with the persons and as and when some of the persons amongst the mob were using to off and on the electric switches of my room and used to throw Chappal, Juta, Paper Weight etc. upon the officers present in my room. The entire scene was going on in dark and whenever the lights were switched on he was always forced upon to call the Executive Director of the Refinery.

35. He also admitted in the cross that the incident took place with him because he was the HOD and he was the person who has prepared the revised rota system.

36. I am highlighting these facts because when the whole incident which took place in his room and the incident is revolving around him, he has been injured and glass top of the table has been broken, but he has not named the CSE Harish Chandra Gupta either according to the charge sheet or said anything that he instigated the crowd. Even this witness neither before the criminal court, nor before the inquiry officer, and nor before this tribunal was able to state even a single word in his evidence that Sri Harish Chandra Gupta was present in the mob in the night of 23-10-89. In other words he did not confirm the presence of CSE at the time of occurrence.

37. Specific question was asked from him in his cross-examination by the authorized representative for the workman as to whether he recognizes Sri Harish Chandra Gupta the charge sheeted employee. In reply to this question he admitted that he knows him well.

38. Now a question arises why a person who is not only a witness but victim also not naming the Sri Gupta CSE, but naming only Sri R. K. Gautam, when there is no duress or threat shown by CSE. Now these are the circumstances under which the evidence has to be appreciated.

39. Opposite party has not declared Dr. Sen M. W. 4 appeared before the tribunal hostile and cross question as to why as per charge sheet he is not mentioning the name of the charge sheeted employee in his evidence before the tribunal. As such there is no such explanation from this witness which may satisfy the tribunal.

40. This cannot be a case that the tribunal should discard the evidence of M. W. 4 Dr. Sen and may consider the evidence of other witnesses individually.

41. This witness has stated in the chief examination of his evidence that he has signed the joint complaint paper no. 30/15. There were certain questions which were put to him in a leading shape. Simply signing a document does not mean that the contents of the documents are readable as it is. The law is that the witness has to narrate the whole storey verbatim of its own and the opportunity has to be granted to the opposite party to cross examine him.

42. He was specifically asked by the authorized representative for the workman two or three times regarding the occurrence and the narration of the incident held on 23-10-89, but he simply replied that the incident was very painful and the mob was led by Sri R. K. Gautam, without naming the charge sheeted employee Sri Harish Chandra Gupta.

43. Though, I have considered the evidence of each and every witness individually. I would like to reproduce the analysis of the other witnesses produced before the tribunal by the opposite party.

44. I have examined the evidence of M. W. 1, Dr. Abbas, M. W. 2 Sri D. V. Oak and M. W. 3 Dr. Vijai Narain Mishra.

45. Opposite party has placed much reliance on the evidence of Sri Oak. He is the person who was not present initially at the time of incident but he was informed by one Dr. Prema Nayak, thereafter, he has gone to the scene of occurrence. He is the person who is the senior officer he has prepared two reports about the incident. One is paper no. 22/49-22/52. It is a photocopy. According to the management this incident report was given to the Deputy General Manager, Mathura Refinery. This report contains the name of the CSE alleging his role but the workman has filed one another report which is original of the same person D. V. Oak which was also prepared on 24-10-89, which is annexure A filed along with application 23/1 and affidavit 23/2. The genuineness of this report has also not been disputed by this witness M. W. 2. It is a fact that this report

does not contain the name of charge sheeted employee whereas the contents of both these reports are the same with no literal difference.

46. It has been contended by the authorized of the workman that according to the principle of natural justice as well as principle of appreciation of evidence the contents of a photocopy cannot be read in evidence unless the original is produced or according to the principle of evidence act unless it has been proved that the original has been lost and it cannot be filed. But the management instead proving that the original of document no. PEX-16 before the inquiry and paper no. 22/49-52 before this tribunal has been lost, has not whispered even a single word as to where is the original and why it could not be produced.

47. In my view the contention of the authorized representative for the workman is law full and the contents of a document cannot be read in evidence unless it is proved that the original of the same has been lost.

48. Moreover, when there are two different contradictory report submitted by M. W. 2 Mr. D. V. Oak on the same day. His explanation that he had prepared two reports, one for the management and other for police or CISF.

49. This explanation does not appear to be satisfactory. He was preparing the report in the capacity of an officer of the management. Annexure A filed by the workman, with his affidavit, it is like a statement of D. V. Oak M. W. 2. If it is a statement then it must have been either some before senior officer or police authorities etc. as the incident was of grave nature. There does not appear to be any explanation as to why this statement paper no. 22/49-52 does not contain the name of the CSE. Therefore, in such circumstances the photocopy filed by the opposite party cannot be relied upon in the absence of the original report paper no. PEX-16 as per inquiry report.

50. I have examined the evidence M. W. 1 and M. W. 3 also who were examined before this tribunal on behalf of the management. There are major variations in their statements like M. W. 1.

51. During examination in chief of M. W. 1 Dr. Abbas, before the inquiry he was specifically asked by the presenting officer to state and to demonstrate the facts regarding the occurrence took place on 23-10-89 at Mathura Refinery Hospital. In reply there to he stated that it is a very old incident. Whereas he remember that a crowd shouting entered in the room of Dr. Sen. He further going on to state that it was appearing that the persons entered in the room of Dr. Sen were compelling Sri Sen to withdraw his some order. This incident was going on up to some time and thereafter the mob left the room of Dr. Sen. This witness according to his memory stated that he personally did not lodge any complaint but a joint complaint was lodged regarding the incident.

52. During his cross-examination before the enquiry officer this witness could not explain as to from where the joint complaint was received and who had drafted the same.

53. This witness was further confronted from the documents Ext.PE-13 about which he stated that he has no concern with this documents.

54. But in his examination in chief before this tribunal this witness has recognised the document P.E. 13 which according to the opinion of the tribunal is absolutely contradictory.

55. Dr. Vijai Narain Mishra who is M.W. 3 before this tribunal was also a witness of the management before the inquiry. He was categorically asked by the presenting officer before the inquiry officer that some incident took place on 22/10/89 in the room Dr. Sen, kindly explain the same. He replied that at the mentioned time Dr. Sen was conducting a meeting in his office and he was also present in the meeting. After about 10 to 15 minutes of the meeting a mob entered in the room and started shouting thereafter all of them left the room. Since the incident is as old as of 15 years therefore he is not able to recognize much more as has been stated by him before the inquiry. What were the demands of the mob he expressed his ignorance.

56. It was a specific question put by the presenting officer before the witness to name the persons present in the mob, thereupon he replied specifically that there was a huge crowd and all of them were shouting badly so he does not remember the name of any of the employee. He admitted that the CSE Sri Gupta has attended his duty according to the revised rota system.

57. Therefore, in the chief itself when there was no fear of any kind and specific questions were put to him regarding the name of the employees who have instigated the mob and have thrown Chappals, paper weight etc., he did not name Sri Gupta or any other employee. His statement before the tribunal in his evidence that at that time he was full of fear of his life therefore, he did not name Sri Gupta before any party which held after 15 years. Now after giving a careful consideration to the statements of this witness given before the inquiry as well as before this tribunal when examined finally by the tribunal, the tribunal is of conclusion that the evidence of this witness before the inquiry or before this tribunal is unbelievable because it appears to be a tutored witness for the sake of to support the allegations of charge sheet. Had there been any apprehension for harm to his life this witness would have certainly made the statement at the earliest opportunity that is before the inquiry but having not stated so now at this belated stage when he was confronted on the point that as to why this was not stated earlier the reply given by him before this tribunal

is absolutely not believable. Therefore, the tribunal is not inclined to believe the statement of this witness either given before the inquiry officer or before this tribunal.

58. In this case the CSE Sri Harish Chandra has appeared as a witness as W.W.1 and has stated in his examination in chief that on 23-10-89 his duty was in B Shift from 2.00 to 10.00 p.m. in the night. He performed his duty well. He totally denied that he was having firearm in the hospital premises. He has totally denied his involvement regarding the incident which occurred on 23-10-89 at about 9.30 p.m.

59. He has been thoroughly cross examined by the opposite party. In the cross examination nothing has come out in his evidence so as to believe his active involvement in the said occurrence. He admitted revised duty rota and performed his duty in accordance with the same and he was not having any grievance with the revised duty rota system. He also stated that although he was on duty in between the night of 22/23-10-89 still he willingly performed his duty from 2.00 p.m. to 10.00 p.m. on 23-10-89 without any demur.

60. Sri Gupta during the course of his cross examination was specifically questioned by the representative for the management that the incident took place in between 7.00 p.m. to 9.00 p.m. which fact has been clearly denied by him. In this connection I would like to observe here that as per charge sheet incident is alleged to have taken place in between the period 9.30 p.m. and onwards.

61. It is contended by the opposite party that as the place of working of Sri Gupta at the time of incident is very near to Dr. Sen's room where the incident occurred, therefore, the inference may be drawn that Sri Gupta might have been present and involved in the mob.

62. I have examined the evidence also and find that such kind of inference cannot be drawn. Prima-facie the burden lies on the management to establish the charges.

63. Therefore considering all the evidence which have been produced in the inquiry as well as before the tribunal, it is found and held that the inquiry which was conducted by the opposite party which had earlier been found vitiated by the tribunal, again it is held that the findings of the inquiry officer were perverse not based on the principle of appreciation of evidence as he has mainly based his report on document no. PEX. 16, before the inquiry officer, which is a photocopy and marked as paper no. 22/49-52 in the records of the tribunal which could not have been relied upon. It is also observed that

this tribunal cannot ignore the evidence of the star witness who is Dr. A.K. Sen, because the tribunal is oblivious of the fact that it was he in whose cabin occurrence took place and it was also he on whose order the employees of Pharmacist department got annoyed and gathered in his room in the shape of a mob and also that it is he who is alleged to be injured, but despite all that he even did not whisper even a single word about the role of the charge sheeted employee in his evidence that either he was carrying deadly weapon under his shawl like Katta, or he was instigating the mob or throwing the Chappal etc. Even he did not confirm his presence at the scene of occurrence.

54. It is also contended by the authorized representative for the workman that on the date of occurrence i.e. 23-10-89, Certified Standing Order which have been mentioned in the charge sheet like under clause 17.1 of the Certified Standing Orders were not in existence on 23-10-89 and these standing orders have come into force thereafter with effect from 28-10-89. Opposite party has failed to reply this contention of the workman. In my view also the chargesheet should have been served under these provisions which were applicable on 23-10-89.

55. In such circumstances the evidence of other witnesses has been found unnatural self contradictory shaky and unbelievable.

66. Therefore, in my view the management has also failed to establish the charges before this tribunal also.

67. The opposite party has relied upon a numerous rulings of the Hon'ble Supreme Court of India as detailed in their compilation. A copy of the said compilation of the rulings is enclosed herewith.

68. I have carefully and respectfully gone through the principle propounded by the Apex Court. I respectfully agree with the principle lay down. But in the given facts and circumstances of the case the opposite party is not able to get any favour from these rulings. Some of the rulings are based on the point that if charged employee has been acquitted in the criminal case, then the department can proceed against the CSE by initiating a disciplinary case and by issuing him a valid chargesheet on the same misconduct for which he was prosecuted before the criminal court.

69. I fully agree with the principle but in the present case the initial burden lies on the management to prove and establish the charges against the CSE on the basis of preponderance of evidence and probabilities

which they have palpably failed. Though, it was the contention of the workman that he had been clearly acquitted from the criminal court.

70. Lastly, it is held that the reference is decided against the management and in favour of the workman.

71. It is further held that the action of the management of Indian Oil Corporation Limited Mathura Refinery Mathura in dismissing Sri Harish Chandra Gupta from services of the corporation with effect from 31-7-08 on the basis of finding of inquiry officer is neither legal nor justified.

72. Accordingly the dismissal order dated 31-07-08 passed by the management is set aside.

73. Consequently the workman is held entitled to be reinstated in the services of the management with full back wages, seniority and all other consequential benefits.

74. Reference is therefore, answered accordingly in favour of the workman and against the management.

RAM PARKASH, Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No.25 of 2009

Between

Harish Chandra Gupta

&

The Executive Director,

Indian Oil Corporation Limited,

Mathura Refinery,

Mathura.

Hon'ble Sir,

For the reasons disclosed in the accompanying affidavit the applicant is filing certain original documents in support of the case, which may kindly be taken on the record of the case for imparting substantial justice to the contesting parties.

Prayer

It is therefore, most respectfully prayed that the Hon'ble Court be kind enough to order to place the affidavit and documents on the record of the case and obliged the applicant.

Applicant

Dated 1-6-2011

(Harish Chandra Gupta)

**BEFORE THE HON'BLE PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—
CUM-LABOUR COURT, KANPUR.**

Industrial Dispute No.25 of 2009

Between

**Harish Chandra Gupta &
The Executive Director,
Indian Oil Corporation Limited,
Mathura Refinery,
Mathura.**

**Affidavit of Sri Harish Chandra Gupta
(Ex-employee of the opposite party)**

**Son of Late Baboo Ram Gupta,
Resident of B-10, Kadamb Vihar, Mathura.**

Deponent.

I, the above named deponent do hereby solemnly affirm and state on oath as under—

1. That the deponent is the concerned workman in the above case and as such is fully conversant with the facts of the case as deposed herein below.

2. That the services of the deponent have been determined by the opposite absolutely in an illegal manner in the name of disciplinary action.

3. That the deponent has shown the original of DEX-II to the enquiry officer during the course of inquiry and had also filed a photocopy thereof before the enquiry officer which also in the shape of some information written by said PW-6 Mr. D. V. Oak which in itself is self explanatory. The deponent is filing the original hand written statement of Mr. D. V. Oak and signed by Mr. D. V. Oak. The same is marked as Annexure No.A, to this affidavit.

4. That by a bare perusal of the aforesaid Annexure A, of this affidavit which is dated 24-10-89, hand written by Mr. D. V. Oak, it will be transpired that nothing has been reported by Mr. D. V. Oak against the deponent in the said communication and also that to whom the said communication was written.

5. That during the course of inquiry, the presenting officer has filed a written complaint of Mr. D. V. Oak, P.W.6, in the shape of photocopy which was marked as PE-16, and heavily relied upon by the enquiry officer while appreciating evidence but its original was never shown to the deponent either by the enquiry officer or by the presenting officer.

6. That the deponent was neither afforded any opportunity by the enquiry officer to cross-examine the witness no. PW-6 Mr. D. V. Oak to testify him on PEX-16, purported to have been written by Mr. D. V. Oak P.W. 6 nor the enquiry officer had taken any cognizance on documentary evidence paper no. DEX-11, filed by the deponent during the course of inquiry after showing the original of the same to the Presenting Officer and Enquiry Officer.

7. That the enquiry was finally concluded by the enquiry officer on 06-04-06, where after on 07-04-06, the deponent submitted a written protest before the disciplinary authority complaining therein that the deponent has lost confidence in the enquiry officer. A Copy of said written protest is being filed with this affidavit and is marked as Annexure no. B.

8. That by a bare comparison of P.E. -16 and Dex-11, which are alleged to have been hand written by Sri D. V. Oak, it will be revealed that there is material variance in both the documents. Whereas in Dex-11 which is dated 24-10-89 but not known as to before whom the said communication was made, the deponent was not named therein but in Ext. PE-16 which also hand written document addressed to Deputy General Manager (G) Mathura Refinery, Mathura, Mr D. V. Oak has named the deponent along with certain other pharmacists. Therefore, it can be safely concluded that document enquiry paper no. PEX-16 is a forged, manufactured and planted document just to inculpate the deponent in a false and fabricated case.

9. That all the colleagues of the deponent who had been named in the FIR lodged by the opposite party and against whom criminal trial was held by the court have been honorably acquitted of all the charges and were taken back in service by the management, but the deponent was singled out as he refused to cow down before the opposite party and thus is out of employment. This shows discrimination and also that the opposite party have exercised its managerial power in a color full way just with a view to victimized the poor workman on one pretext of the other.

10. That the above alleged disciplinary action against the deponent and the impugned order dated 31-07-08, by means of which the services of the deponent were determined by the management opposite party, fully attracts the item no. 5 of the Vth Schedule of Industrial Disputes Act, 1947, which clearly provide as under—

5. Discharge or dismiss a workmen—

- (a) by way of victimization
- (b) not in good faith, but in the colorable exercise of employer's right;
- (c) by falsely implicating a workman in a criminal case on false evidence or on concocted evidence;
- (d) for patently false reasons;
- (e) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue hast;
- (f) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the workman thereby leading to a disproportionate punishment;
- (g) for misconduct of a minor or technical character without having any regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.

11. That it is respectfully submitted that the facts mentioned in paragraph no.10 of this affidavit have been well recognized to be an act of Unfair Labour Practice, as defined under Section 2(ra) of Industrial Disputes Act, 1947.

Deponent

I, the above named deponent do hereby verify that the contents of paragraph nos 1 to 11 of this affidavit are true to the best of the knowledge and belief of the deponent and nothing material has been concealed. So help me God.

Verified this on 01-06-2011 at Kanpur.

1-6-2011

Deponent

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR**

I.D. No. 25/2009

Between

**Shri Harish Chandra Gupta Son of Shri Babu Ram Gupta (Ex-workman, IOC Ltd.)
Resident of B-10, Kadamb Vihar, Mathura- 281006**

...Workman

and

Indian Oil Corporation Ltd., through The Executive Director, Mathura Refinery, Mathura

...Employer

LIST OF DOCUMENTS - RELIANCE

Sl. No.	Description of documents/paper	Annex Nos.	No. of Pages
1	2	3	4
1.	Copy of Office order of M/s. IOC Ltd., Mathura No. MRP/I/76390 dated 12-02-1982 appointing Shri Harish Chandra Gupta on post of Dispenser-cum-Dresser on 06-02-1982, in Mathura Refinery, Mathura	D-1	1
2.	Copy of First Information report lodged by Shri SR Kardam, Personnel and Administrative Officer, Mathura Refinery Hospital, Mathura on 24-10-1989 at Police Station - Refinery District Mathura under Section 147/149/186/332/427/504 of Indian Penal Code against Shri H.C. Gupta and others vide crime No. 101/89 in respect of commission of offences on 23-10-1989	D-2	2-3
3.	Copy of Charges framed by the Court of Chief Judicial Magistrate, Mathura in criminal case No. 1994/90 on 11-08-1994 under Section 147/332/149/353/149, 342, 504, 336, 337 of Indian Penal Code, 7 of Criminal Law and Section 3 of National Security Act	D-3	4-5
4.	Copy of acquittal order dated 22-05-2001 of the court of Additional Chief Judicial Magistrate-IV, Mathura in criminal case No. 1125/2000	D-4	6—21
5.	Copy of Order No. MRP/I/76390 Dated 27-10-1989 of the Executive Director, Mathura Refinery of IOC Limited, Mathura dismissing Shri H.C. Gupta from service with effect from Oct 27, 1989.	D-5	22
6.	Copy of Order dated 02-04-2004 of Hon'ble High Court at Allahabad in writ Petition No. 29656 of 1990 - Harish Chandra Gupta versus I.O.C. Ltd setting aside the dismissal order dated 27-10-1989 and appellate order dated 31-08-1990	D-6	23—29
7.	Copy of Office Order No. MRP/I/19390 dated 20-04-2004 of Chief Human Resources Manager, Mathura Refinery of M/s I.O.C. Ltd reinstating Shri H.C. Gupta in service with effect from 02-04-2004 in the post of Pharmacist	D-7	30—31

1	2	3	4
8.	Copy of first representation of Shri H.C. Gupta dated 29-04-2004 to M/s I.O.C. Ltd., claiming for reinstatement in service and other service benefits from 27-10-1989 in terms of order dated 02-04-2004 of Hon'ble High Court.	D-8	32
9.	Copy of second representation of Shri H.C. Gupta dated 16-07-2004 to M/s I.O.C. Ltd. climing for reinstatement in service and other service benefits from 27-10-1989.	D-9	33—35
10.	Copy of charge sheet No. MRP/I/76390 dated 28-05-2004 issued by the Management of M/s. IOC Ltd., to Shri Harish Chandra Gupta, Pharmacist.	D-10	36—38
11.	Copy of written Explanation dated 16-06-2004 of Shri Harish Chandra Gupta in reply to the charge sheet dated 28-05-2004 of the management of IOC Ltd.	D-11	39—41
12.	Copy of order No. MRP/I/76390 dated 06-07-2004 signed by Deputy General Manager (HR) of IOC Ltd. instituting enquiry and appointing Enquiry officer	D-12	42
13.	Copy of circular No. MR/IR/12 dated 22-07-2008 mentioning competent Disciplinary Authorities	D-13	43—45
14.	Copy of certified standing orders of Mathura Refinery of Indian Oil Corporation Ltd. Mathura	D-14	46—55
15.	Copy of findings dated 26-10-1989 of preliminary enquiry conducted by Shri S. Y. Khedkar, Deputy General Manager (G) Mathura Refinery as per Office Order No. ED/3/89 dated 24-10-1989	D-15	56—58
16.	Copy of enquiry proceedings held on 19-08-2004 by Enquiry Officer in terms of the charge sheet dated 28-05-2004 not produced originals for inspection	D-16	59—60
17.	Copy of enquiry proceedings held on 17-09-2004 by Enquiry Officer in terms of the charge sheet dated 28-05-2004 showing leading questions in main examination.	D-17	61—68
18.	Copy of enquiry proceedings held on 23-03-2005 by Enquiry Officer in terms of charge sheet dated 28-5-2004 non-grant of adjournment	D-18	69—76
19.	Copy of enquiry proceeding held on 07-04-2005 by Enquiry Officer in terms of charge sheet dated 28-05-2004 showing cross examination of Shri SR Kardam, PW-4.	D-19	77—81
20.	Copy of enquiry proceedings held on 19-04-2005 by Enquiry Officer in terms of the charge sheet dated 28-05-2004 showing no request of Presenting Officer for showing Exhibits to Dr. A. K. Sen, witness	D-20	82—86
21.	Copy of enquiry proceedings held on 15-06-2005 by Enquiry officer in terms of the charge sheet dated 28-05-2004, showing leading question examination in chief of witness Shri B. V. Oak, in absence of co-worker	D-21	87—90

1	2	3	4
22.	Copy of enquiry proceedings held on 05-09-2005 at New Delhi by Enquiry officer in terms of charge sheet dated 28-05-2008 allowing leading questions to Shri S.L. Verma, PW-5	D-22	91-93
23.	Copy of enquiry proceedings held on 19-10-2005 by Enquiry Officer in terms of charge sheet dated 28-05-2004 not permitting defence witness who were not employees of IOC Ltd to adduce evidence in support of charged employee and not asking charged employee about admission of documents	D-23	94—102
24.	Copy of enquiry proceedings held on 28-10-2005 by Enquiry Officer in terms of the charge sheet dated 28-05-2004 not recalling Shri D.V. Oak, PW-6 for cross examination and on veracity of documents PE-16 and DEX-11	D-24	103—108
25.	Copy of enquiry report dated 07-12-2006 of Enquiry Officer in terms of the charge sheet dated 28-05-2004	D-25	109—131
26.	Copy of enquiry report dated 19-03-2008 of Enquiry Officer in terms of the charge sheet dated 28-05-2004	D-26	132-158
27.	Copy of Annexure-I to certified standing orders of Mathura Refinery of Indian Oil Corporation Ltd.	D-27	159
28.	Copy of Order of Dismissal from service dated 31-07-2008 signed by the Executive Director, Mathura Refinery of IOC Ltd, Mathura	D-28	106—166
29.	Copy of Appellate Order dated 17-09-2008 of the Appellate Authority, IOC Ltd.	D-29	167-169
30.	Copy of Circular No. MR/IR/12 dated 22-07-2008 of Mathura Refinery of IOC Ltd. notifying competent disciplinary authorities and the appellate authorities	D-30	170-172
31.	Copy of letter No. MRP/I/76390 dated 17-04-2008 of Dy. General Manager (HR), Mathura Refinery of IOC Ltd. to Shri H.C. Gupta enclosing enquiry report dated 19-03-2008 and seeking representation from Shri HC Gupta	D-31	173
32.	Copy of representation dated 09-04-2007 of Shri HC Gupta against findings of Enquiry Officer vide enquiry report dated 07-12-2006 in terms of charge sheet dated 28-05-2004.	D-32	174—211
33.	Copy of representation dated 10-05-2008 of Shri HC Gupta addressed to Dy. General Manager (HR), Mathura Refinery, Mathura	D-33	212-213
34.	Copy of representation dated 28-06-2007 of Shri H.C. Gupta addressed to Enquiry officer inviting attention and consideration of acquittal of charges by criminal court	D-34	214-216
35.	Copy of representation dated 15-06-2006 of Shri Rajesh Sharma -co-worker/Defence Representative of charged employee addressed to Enquiry Officer for seeking adjournment of enquiry	D-35	217

1	2	3	4
36.	Copy of representation dated 02-08-2005 of Shri Rajesh Sharma - co-worker/Defence Representative for enquiry to be held on 04-08-2005 at Baroda Refinery.	D-36	218
37.	Copy of appeal dated 13-08-2008 of Shri H.C. Gupta addressed to the Director (Refineries) Indian Oil Corporation Ltd., New Delhi.	D-37	219-220
38.	Copy of Charge sheet No. MRP/I/75759 dated 27th October, 1989 issued to Shri Ajay Bajpai, Pharmacist Medical Department, Mathura Refinery of IOC Ltd. signed by Dy. General Manager (G), Mathura Refinery Mathura.	D-38	221-222
39.	Copy of punishment order No. MRP/I/75759 dated 22nd February, 1995 issued to Shri Ajay Bajpai, Pharmacist signed by Chief Medical Officer, Mathura Refinery Mathura.	D-39	223
40.	Copy of charge sheet No. MRP/I/75721 dated 27th October, 1989 issued to Shri Dauji Ram, Pharmacist, Medical Department, Mathura Refinery of IOC Ltd. signed by Dy. General Manager (G), Mathura Refinery, Mathura.	D-40	224-225
41.	Copy of punishment order No. MRP/I/75721 dated 22nd February, 1995 issued to Shri Dauji Ram, Pharmacist under signature of Dr. M. Ahmed, Chief Medical Officer, Mathura Refinery, Mathura.	D-41	226
42.	Copy of enquiry proceedings held on 06-12-2007 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-42	227-231
43.	Copy of enquiry proceedings held on 04-08-2005 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-43	232-237
44.	Copy of enquiry proceedings held on 06-04-2006 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-44	238-249
45.	Copy of representation dated 07-04-2006 of Shri HC Gupta, charged employee addressed to Dy. General Manager (HR), Mathura Refinery, Mathura.	D-45	250-251
46.	Copy of enquiry proceedings held on 05-04-2006 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-46	252-257
47.	Copy of enquiry proceeding held on 04-04-2006 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-47	258-269
48.	Copy of enquiry proceedings held on 03-04-2006 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-48	270-274

1	2	3	4
49.	Copy of enquiry proceedings held on 01-01-2006 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-49	275-282
50.	Copy of enquiry proceedings held on 09-12-2005 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-50	283-285
51.	Copy of enquiry proceedings held on 07-12-2005 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-51	286-290
52.	Copy of enquiry proceedings held on 06-12-2005 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-52	291-297
53.	Copy of enquiry proceedings held on 05-12-2005 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-53	298-303
54.	Copy of enquiry proceedings held on 26-10-2005 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-54	304-312
55.	Copy of enquiry proceedings held on 16-06-2005 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-55	314-315
56.	Copy of enquiry proceedings held on 18-01-2005 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-56	315-318
57.	Copy of enquiry proceedings held on 17-12-2004 by Enquiry Officer in terms of the charge sheet No. MRP/I/76390 dated 28-05-2004.	D-57	319-321
58.	Copy of Judgment dated 26-11-2008 of the Hon'ble High Court at Allahabad in civil misc. writ petition No. 61047/2008 - Harish Chandra Gupta versus Indian Oil Corporation Ltd.	D-58	322-325

The workman reserves his right to add or delete the documents with prior approval of the Hon'ble Industrial Tribunal -cum-Labour Court during the course of industrial adjudication proceedings.

Workman

Dated : 13-05-09

Sd/-

HARISH CHANDRA GUPTA
S/o Shri Babu Ram Gupta
B-10, Kadamb Vihar,
Opp. Refinery Nagar,
Mathura-281006

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL/LABOUR COURT,
KANPUR NAGAR**

Civil Misc. Application No. of 2011

On Behalf of

IOC, Mathura Refinery Opp. party

In

ID Case No. 25 of 2009

Shri Harish Chandra Gupta Petitioner

Versus

IOC, Mathura Refinery Opp. party

The humble petition of the above named opposite party Most Respectfully sheweth as under :

1. That during the course of proceedings before the Enquiry Officer on 19th August, 2004, as has been recorded in the proceedings of the enquiry itself, different documents have been filed on behalf of the management. Those documents have been marked as PE-1 - PE-20. The Enquiry Officer in its report has clearly stated that it has not taken into consideration some of such documents which have been filed on behalf of the management i.e. document no. PE-7, PE-10, PE-11, PE-12, PE-13, PE-15, PE-17 and PE-19. The said documents which have been filed before the enquiry officer, some of which are already on record. Other documents which have been placed at the time of hearing on behalf of the management i.e. PE-5 - PE-20 (except document not relied upon by the enquiry officer) are enclosed and marked as Annexure-1.

2. That out of the aforesaid documents, some of it were produced in original before the enquiry officer. Document PE-8 which is joint complaint dated 24-10-1989 of the doctors recording incident of 23-10-1989 is manually typed written document which is two copies that is original copy and carbon copy. Both the documents that is the original and carbon copy have identical contents and both of it contains original signatures of the complainant doctors. However, in the original, some of the doctors after their signatures have also mentioned their names in bracket whereas in the carbon copy only signatures exists upon the complaint, but complete name below their signatures has not been mentioned in the carbon copy. Except for this, there is no other difference in the original and carbon copy. The original complaint as well as its carbon copy both of which were produced before the enquiry officer on behalf of the management are being filed in original and marked as Annexure-2 and Annexure-3.

3. That the shocking incident which took place on 23-10-1989 resulted in miserable grim situation for the refinery and various proceedings including departmental and criminal were initiated against some of the doctors. Some of the original reports were therefore, not available by the time disciplinary proceedings were initiated and also for the reason that the enquiry itself was taking place after expiry of nearly 15 years and, therefore, some of the photocopy which were available were produced before the enquiry officers and its authors/signatories appeared to testify the same. The enquiry officer, therefore, rightly relied upon all such documents in the enquiry report which were duly verified by the signatories of the documents itself, which have been produced in the enquiry proceedings.

4. That similarly copy of documents which were filed before the enquiry officer on behalf of the workman in his defense on 19-10-2005 being paper no. DEX-1 - DEX-14 are enclosed and marked as Annexure-4. Detailed reference of the said documents also finds place in the proceedings of the enquiry officer dated 19-10-2005.

5. That it is prayed that the present affidavit may kindly be treated to be part of the record

PRAYER

It is, therefore, most respectfully prayed that the original documents as well as photocopy of other documents which have been relied upon on behalf of the management and also on behalf of workman are being filed herewith and the same may kindly be taken on record for appropriate adjudication of the matter in issue.

Verification

I, A. K. Sinha, aged about 57 years, son of Late R. A. Sinha, presently posted as Chief Human Resource Manager, Mathura Refinery, Mathura do hereby verify that the contents of para 1 to 5 stated above are partly based on records and partly on legal advice which I believe to be true.

Verified at Mathura on ...

For M/s Indian Oil Corp. Ltd.
Mathura Refinery, Mathura
Sd/-
(CHRM)

**BEFORE THE PRESIDING OFFICER CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, KANPUR**

I.D. CASE NO.25 OF 2009

Harish Chandra Gupta Vs. IOC, Mathura Refinery, Mathura

The Presiding Officer, C.G.I.T., Kanpur

HON'BLE SIR,

That today, I am filing the additional documents in the case of Shri Harish Chandra Gupta which are as under:

1. Copy of enquiry report dated 19-03-2008
2. Copy of order of appointment
3. Circular no. MR/MED dtd. 19-10-1989 detailing duties of pharmacists
4. Duty rotation dtd. 20-10-1989
5. Copy of pamphlet leveling allegations against doctors.
6. Joint complaint of the Doctors dtd. 24-10-1989
7. Joint Resignation by 8 Doctor.
8. Statement of Shri R.K. Mehta, PAO dtd. 23-10-1989
9. Office Order dtd. 24-10-1989, appointing Shri S.Y. Kedkar, for investigation.
10. Letter to Secretary, MOP & NG, Govt. of India, Dtd. 24-10-1989.
11. Notice declaring Lock Out of Hospital dtd. 24-10-1989.

12. Statement of Shri S.R. Kardam, Shri Narang and Shri D.V. Oak.
13. Copy of preliminary investigation report dtd. 26-10-1989.
14. Copy of report to S.P. Mathura dtd. 26-10-1989.
15. Note of ED, dtd. 27-10-1989, for invoking Clause 18.8.
16. Letter to ALC (Central), Lucknow dtd. 22-10-1990.

The above noted documents along with the documents already filed with Written Statement be kindly treated as documentary evidence in the above noted case.

That it is also prayed that the question with regard to fairness of the domestic enquiry be adjudicated first in light of pleadings made in written statement particularly in para 52 thereof and the same be decided first.

PRAYER

It is, therefore, most respectfully prayed that the Hon'ble Tribunal may be kind enough to take the documents on record and the same be treated as part of Evidence.

(AOY KUMAR SINHA)
Chief Human Resource Manager.
Indian Oil Corporation Ltd.,
Mathura Refinery, Mathura

**List of Documents
In
I. D. Case No. 25 of 2009
Sri Harish Chandra Gupta
Versus
Indian Oil Corporation Ltd.**

Sl. No.	Particular of papers	Date	Annexure	Page No.
1.	Copy of circular	18-12-2002	1	1-3
2.	Copy of circular	22-7-2008	2	4-10
3.	Copy of order	27-2-1989	3	11-12
4.	Copy of the order passed by Delhi High Court passed in Civil Writ Petition No. 3220 of 1990	24-09-2002	4	13-29
5.	Copy of the order of Hon'ble Delhi High Court passed in writ petition no. 6677 of 2003.	18-1-2006	5	30-34
6.	Copy of the inquiry report	19-3-2008	1	35-62
7.	Copy of order of DGM (HR)	5-7-2004	7	63-65
8.	Copy of order of disciplinary authority	12-6-2007	8	66-68

(ANKUSH TANDON)
Representative Opposite party

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COMMISSIONER,
KANPUR NAGAR.**

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List of Witness/Documents

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H.C. Gupta Vs. Indian Oil Corporation Ltd.

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2. List of Documents.	2	
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Circular No. MR/MED dated 19-10-89—detailing duties of Pharmacists	PE-5	5-7
Duty Rota dated 20-10-89	PE-6	8
Copy of pamphlet leveling allegations against Doctors (Original)	PE-7	9
Joint Complaint dated 24-10-89 of Doctors on incidence of 23-10-89 (original already submitted in CGIT)	PE-8	
Join resignation by 8 Doctors (Original)	PE-9	12
Statement of Shri R. K. Mehta, PAO dated 23-10-89	PE-10	13
Office Order dated 24-10-89 appointing Shri S. Y. Kedkar, DGM(GX) for investigation (Original)	PE-11	14
Letter to Secretary, MoP & NG (Incidence Report) dated 24-10-89	PE-12	15-16
Copy of Notice/Circular No. MR/IR dated 24-10-89 (Original) declaring Lock-out of the hospital.	PE-13	17-18
Statement of Shri S. R. Kardam	PE-14	19-21
Statement of Shri Narang	PE-15	22-23
Statement of Shri D. M. Oak	PE-16	24-27
Copy of Preliminary Investigation Report dated 26-10-89	PE-17	28-33
Copy of Report to S.P. Mathura dated 26-10-89 (Original)	PE-18	34-36
Note of ED dated 27-10-89 recording reasons for invoking Clause 18.8 against Shri R. K. Gautam and Shri H.C. Gupta	PE-19	37
Letter to ALC Central, Lucknow dated 22-10-90 (Original)	PE-20	38-43

OTHER DOCUMENTS

Sl. No.	Date	Particulars	Page No.
(1)	(2)	(3)	(4)
1.	28-05-2004	Chargesheet (original also Hindi version marked A to Z)	44-46
2.	16-06-2004	Reply to Chargesheet by CSE (original)	47-49
3.	06-07-2004	Appointment of Enquiry officer and P.O. (Original)	50-51
4.	19-08-2004	Enquiry proceedings (In original from 19-08-2004 to 06-04-2006)	52-56
5.	17-09-2004	In view of Court Order and Tribunal dtd: 2-6-11 Entire inquiry not proceedings are not admitted	57-64

Sl. No.	Date	Particulars	Page No.
6.	17-12-2004	In view of Court Order of Tribunal dtd. 2-6-11 Entire inquiry proceedings are not admitted	65—67
7.	18-01-2005	do-	68—71
8.	23-03-2005	do-	72—79
9.	07-04-2005	do-	80—84
10.	19-04-2005	do-	85—89
11.	15-06-2005	do-	91—94
12.	15-06-2005	Letter by CSE (Original)	90
13.	16-06-2005	do-	95—96
14.	02-08-2005	Letter by CSE (Original)	97-
15.	04-08-2005	In view of Court Order of Tribunal dtd. 2-6-11 Entire inquiry proceedings are not admitted	98—103
16.	05-09-2005	do-	104—106
17.	19-09-2005	do-	107—108
18.	20-09-2005	do-	109—110
19.	19-10-2005	do-	111—119
20.	26-10-2005	do-	120—126
21.	28-10-2005	do-	127—132
22.	30-11-2005	Appointment of Ms. Rashmi Govil as P.O. (Original)	133
23.	05-12-2005	In view of Court Order of Tribunal dtd. 2-6-11 Entire inquiry proceedings are not admitted	134—139
24.	06-12-2005	do-	140—146
25.	07-12-2005	do-	147—151
26.	09-12-2005	do-	152—154
27.	10-01-2006	do-	155—162
28.	03-04-2006	do-	163—167
29.	04-04-2006	do-	168—179
30.	05-04-2006	do-	180—185
31.	06-04-2006	End of Enquiry Proceedings	186—197
32.	07-12-2006	Enquiry Report (Original)	198—219
33.	09-04-2007	Representation against the Enquiry Report. (Original)	220—229
34.	12-06-2007	Dr. A. Dandekar's Petition to Re-open Enquiry. (Original)	230—231
35.	06-12-2007	Enquiry Proceedings	232—236
36.	19-03-2008	Enquiry Report (Original)	237—263
37.	10-05-2008	Representation by CSE (Original)	264—265

Dated : 16-09-2011

ANKUSH TANDON

Authorised Representative
 Indian Oil Corporation Ltd.,
 Mathura Refinery, Mathura

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR NAGAR.**List of Witnesses****In****I.D. CASE 25 OF 2009****H.C. GUPTA VS. INDIAN OIL CORPORATION LTD.**

1	PW 1	Dr. A. K. Sen GM (Med), Gujarat Refinery (Retired)
2	PW 2	Dr. V. N. Mishra CMO Gujarat Refinery (Retired)
3	PW 3	Dr. S. A. Abbas CMO Mathura Refinery
4	PW 4	Shri S. R. Kardam Mgr. (A & W) Mathura Refinery (Dead)
5	PW 5	Shri S. L. Verma GM (HR) CO (Retired)
6	PW 6	Shri D. V. Oak DGM (HR) Gujarat Refinery (Retired)
7		Shri Sudhakar Jha, Enquiry Officer
8		Shri Rajendra Prasad Ex-CPAM. (Retired)
9		Shri R. K. Mehta, (Retired)

Dated : 16-09-2011

(ANKUSH TANDON)

Authorised Representative
 Indian Oil Corporation Ltd,
 Mathura Refinery, Mathura.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR NAGAR.**List of Documents****In****I.D. CASE 25 OF 2009****H.C. GUPTA VS. INDIAN OIL CORPORATION LTD.**

Sl. No.	List of exhibits submitted by presenting officer	Record in the enquiry as
(1)	(2)	(3)
1.	Copy of office of appointment	PE-4
2.	Circular No. MR/MED dated 19-10-89—detailing duties of Pharmacists	PE-5
3.	Duty Rota dated 20-10-89	PE-6
4.	Copy of pamphlet leveling allegations against Doctors	PE-7
5.	Joint Complaint dated 24-10-89 of Doctors on incidence of 23-10-89	PE-8
6.	Joint resignation by 8 Doctors	PE-9
7.	Statement of Shri R K Mehta, PAO dated 23-10-89	PE-10
8.	Office Order dated 24-10-89 appointing Shri S Y Kedkar, DGM (G) for investigation	PE-11
9.	Letter to Secretary, MoP & NG (Incidence Report) dated 14-10-89	PE-12
10.	Copy of Notice/Circular No. MR/IR dated 14-10-89	PE-13

(1)	(2)	(3)
11.	Statement of Shri S R Kardam	PE-14
12.	Statement of Shri Narang	PE-15
13.	Statement of Shri D V Oak	PE-16
14.	Copy of Preliminary Investigation Report, dated 26-10-89	PE-17
15.	Copy of Report to SP, Mathura dated 26-10-89	PE-18
16.	Notice of ED dated 27-10-89 recording reasons for invoking Clause 18.8 against Shri R K Gautam and Shri H C Gupta	PE-19
17.	Letter to ALC Central, Lucknow dated 22-10-90	PE-20

Dated : 16-09-2011

(ANKUSH TANDON)

Authorised Representative
Indian Oil Corporation Ltd,
Mathura Refinery, Mathura.

MANAGEMENTSIDES**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR NAGPUR
CASE LAWS**

S.No.	Citation	Party Name	Pg. No.
(1)	(2)	(3)	(4)
Power of Labour Court			
1	AIR 1973 SC 1227	M/s Firestone Tyre and Rubber Co. of India P. Ltd. Vs The Management and others	1-22
Tribunal cannot act as appellate body			
2	AIR 1974 SC 696	The East India Hotel vs Their workman	23-26
3	AIR 2003 SC 1377-	Kailash Nath Gupta vs Enquiry Officer Alld Bank	27-33
4	AIR 2008 SC 1162	Employer in relation to the management of West Bokaro Colliery of M/s. Tisco Ltd. vs The Concerned Workman.	34-37
Confinement and withholding etc. of senior officer is a grave misconduct			
5	AIR 1990 SC 1054	Workman of Bharat Fritz Werner Vs. Bharat Fritz Werner	38-47
6	AIR 2004 SC 4647	Management of Krishna Kali Tea Estate Vs Akhil Bhartiya Chah Mazdoor Sangh	48-56
7	AIR 2005 SC 584	Damoh Panna Sagar Rural Bank Vs. Munna Lal Jain	57-65
8	AIR 2005 SC 1924	Madhya Pradesh Electricity Board Vs Jagdish Chandra Sharma.	66-70
9	AIR 2005 SC 1993	Mahindra and Mahindra Ltd. Vs. N.B. Naravade	71-77
10	AIR 2005 SC 2006	Employers, Management Colliery M/s Bharat Cooking Coal Ltd. Vs. Bihar Colliery Kamgar Union	78-82
11	AIR 2005 SC 2783	Onkar Nath Mishra Vs. State of Haryana	83-84
Back Wages			

(1)	(2)	(3)	(4)
12	AIR 2009 (sup) SC 1	M/s Laxmi Ratan Cotton Mills Vs. State of UP	85-90
13	AIR 2009 (sup) SC 1110 Post Graduate Institute	Talwara Co-operative Credit Society Ltd. Vs Sushil Kumar	91-94
14	AIR 2007 SC 152 <i>Judgment of Tribunal not binding upon the employer.</i>	Depot Manager APSRTC Vs Raghuda Siva Sanskar Prasad	95-98
15	AIR 2005 SC 2179	Manager RBI Bangalore Vs S. Mani and others.	99-117
16	AIR 2006 SC 3533	South Bengal State Transport Vs Swapnil Kumar Mitra	118-128

BEFORE THE PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR
Industrial Dispute No. 25 of 2009
Between

Shri Harish Chandra Gupta (Ex-employee of IOC Ltd.)

S/o Shri Babu Ram Gupta

R/o B-10 Kadumb Vihar, Mathura-281006.

—Workman/Applicant

And

The Executive Director,

Indian Oil Corporation Limited,

Mathura Refinery, Mathura-281005.

—Opposite party/employer

List of Further Documents-Reliance

The list of further documents is submitted in continuation of list of documents dated 13-5-09 as under :—

Sl. No.	Description of documents/papers	Annexure Number	Number of pages.
(1)	(2)	(3)	(4)
59.	Copy of Standing orders laid down under Industrial Employment (Standing Orders) Act 1946	D-59	1-18
60.	Copy of circular No. MRP/IV/12 dated 20th July 1996 showing modification in standing order clause 17.3 to 17.7 to 18.3 to 18.7, issued by Indian Oil Corporation Ltd. Mathura Refinery, Mathura	D-60	1
61.	Copy of circular No. MRP/IV/64 (A) dated September 9, 1998 showing modification in standing order clause No. 27.1 and 27.2 by single clause 27 (Agreement of representation) issued by Indian Oil Corporation Ltd. Mathura Refinery, Mathura	D-61	1
62.	Copy of Order No. K-37 (6)/98-E-1 dated 17th June 1998 passed by the Regional Labour Commission (Central) Kanpur and Certifying Officer modification in standing order No. 27.1 and 27.2 of Mathura Refinery of Indian Oil Corporation Ltd.	D-62	1
63.	Copy of Order No. MRP/I/76390 dated 25-05-2004 fixing basic pay at Rs. 8105.00 in Pay scale of Rs. 580/-11800.00 on reinstatement in service issued by Indian Oil Corporation Ltd., Mathura Refinery	D-63	1
64.	Copy of the letter No. OM/Inquiry/01 dated 21-04-2006 of Shri J. Rathi, Inquiry Officer to Shri R. K. Chugh, Presiding Officer of Indian Oil Corporation Ltd. giving a copy of sum up of prosecutions to the charge sheeted employee, with extract of minute of inquiry proceedings.	D-64	2
65.	Copy of the representation dated 19-07-2004 of Shri H.C. Gupta, Workman addressed to the Deputy General Manager (HR) Indian Oil Corporation Ltd. Mathura Refinery—Processing the charge sheet and inquiry proceedings.	D-65	2

(1)	(2)	(3)	(4)
66.	Copy of Oral testimony of Dr. A. K. Sen, then Joint Chief Medical Officer, Mathura Refinery prosecution Witness in criminal Case No. 1854/90—given in the court of Additional Chief Judicial Magistrate-IV Mathura on 29-04-98.	D-66	1-3
67.	Copy of Oral testimony of Dr. Vijay Narayan Mishra, Prosecution witness in criminal Case No. 1854/90—given in the court of Additional Chief Judicial Magistrate-IV Mathura	D-67	1-4
68.	Copy of Oral testimony of Sr. S. R. Kardam, Prosecution witness in criminal Case No. 1854/90—given in the court of Additional Chief Judicial Magistrate-IV Mathura	D-68	1-14
69.	Copy of representation dated 09-04-2007 of Shri H.C. Gupta addressed to The Deputy General Manager (HR) Mathura Refinery, requesting to absolve him from all the charges regarding incidence taken place on 23-10-1989.	D-69	1-2
70.	Copy of representation dated 28-06-2007 of Shri H.C. Gupta addressed to Shri Suchakar Jha, Inquiry Officer, requesting to absolve him from all the charges regarding incidence on 23-10-1989.	D-70	1-2

Witnesses

Hanish Chandra Gupta,
Son of Shri Baba Ram Gupta
B-10, Kadamb Vihar
Mathura 281006

नई दिल्ली, 31 जुलाई, 2012

का.आ. 2724.—जबकि मैसर्स ब्रिज एण्ड रुफ कंपनी (इंडिया) लिमिटेड [कोलकाता क्षेत्र में कोड संख्या छठा सूची 219 के अंतर्गत] (इसमें इसके उपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि एवं प्रकल्प उपबंध अधिनियम, 1952, (1952 की संख्या 19) (इसमें इसके उपरांत अधिनियम के रूप में संदर्भित) के अंतर्गत कर्मचारी भविष्य निधि योजना, 1952 (इसके उपरांत योजना के रूप में संदर्भित) के पैराग्राफ 27-क के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि कोलकाता सरकार की राय में, उपर्युक्त प्रतिष्ठान में कर्मचारियों के लिए भविष्य निधि के अंतर्गत कीमिटी के संबंध में नियन उत्तर अधिनियम वाले अद्य 6 में विनिर्दिष्ट दरों की तुलना में कम हितकारी नहीं है तथा कर्मचारी उत्तर अधिनियम अधिकारी योजना के अंतर्गत सदृश सरकार के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में प्रदान की गई अन्य भविष्य निधि प्रयुक्तियों का भी लाभ उठा रहे हैं।

3. अतः, अब उत्तर योजना के पैराग्राफ 27-क के अंतर्गत प्रदत शक्तियों का प्रयोग करते हुए तथा इस संबंधमें सरकार समय पर विनिर्दिष्ट रूपों के अन्तर्गत, कोलकाता सरकार एवं द्वारा मैसर्स ब्रिज एण्ड रुफ कंपनी (इंडिया) लिमिटेड अधिनियमी विधियों के नियम 2 (viii) के अंतर्गत परिमाणित वर्ग कर्मचारियों को 24-01-2011 से अगले आदेश/अधिसूचना के तहत छूट प्रदान करती है।

[सं. एस-35015/1/2012-एसएस-II]

नरेश जात्रसाहस्री अधिकारी सचिव

New Delhi, the 31st July, 2012

S.O. 2724.—Whereas M/s. Bridge & Roof Co. (India) Ltd. [under Code No. WB/219 in Kolkata Region] (hereinafter referred to as the establishment) has applied for exemption under paragraph 27-A of the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, (No.19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Scheme in relation to the employees in any other establishment of similar character.

Now, therefore, in exercise of the powers conferred under paragraph 27-A of the said Scheme and subject to the conditions specified in this regard from time to time, the Central Government hereby exempts the class employees defined under Rule 2(viii) of the M/s. Bridge & Roof Company (India) Limited Officers Provident Fund w.e.f. 24-01-2011 under further orders notification.

[No. S-35015/1/2012-SS-II]

NARESH JAISWAL, Under Secy.

नई दिल्ली, 3 अगस्त, 2012

का.आ. 2725.—कर्मचारी रुच्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा--(3) द्वारा प्रदत्त शब्दियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 सितम्बर, 2012 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप-धारा--(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध पश्चिम बंगाल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे :

क्र.सं.	राजस्व क्षेत्रों/मौजा के नाम	जे.ए.ल. संख्या	नगर पालिकाओं/ग्राम पंचायत के नाम	ज़िलों के नाम
1.	रोरपुर माकिमपुर	63	इंग्लिश बाजार नगरपालिका	मालदा
2.	महेशमती	66	इंग्लिश बाजार नगरपालिका	मालदा
3.	इंग्लिश बाजार	67	इंग्लिश बाजार नगरपालिका	मालदा
4.	मकदमपुर	68	इंग्लिश बाजार नगरपालिका	मालदा
5.	पिरोजपुर	69	इंग्लिश बाजार नगरपालिका	मालदा
6.	झलझलिया	72	इंग्लिश बाजार नगरपालिका	मालदा
7.	गाबगाढ़ी	90	जदुपुर ग्राम पंचायत	मालदा

[सं. एस-38013/28/2012-एस.एस.-I]

नरेश जायसवाल, अवर सचिव

New Delhi, the 3rd August, 2012

S.O. 2725.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2012 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of West Bengal namely :—

Sl. No.	Name of Mouza	J.L. No.	Name of Municipality/Gram Panchayat	Name of District
1.	Sherpur Makimpur	63	English Bazar Municipality	Malda
2.	Maheshmati	66	English Bazar Municipality	Malda
3.	English Bazar	67	English Bazar Municipality	Malda
4.	Makdumpur	68	English Bazar Municipality	Malda
5.	Pirojpur	69	English Bazar Municipality	Malda
6.	Jhaljhulia	72	English Bazar Municipality	Malda
7.	Gabgachi	90	Jadupur Gram Panchayat	Malda

[No. S-38013/28/2012-SS-I]

NARESH JAISWAL, Under Secy.